

39

889
1195
Part 4

ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

SEVENTEENTH CONGRESS—FIRST SESSION.

THE
DEBATES AND PROCEEDINGS

IN THE
CONGRESS OF THE UNITED STATES;

WITH
AN APPENDIX,

CONTAINING
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL
THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

SEVENTEENTH CONGRESS.—FIRST SESSION:
COMPRISING THE PERIOD FROM DECEMBER 3, 1821, TO MAY 8, 1822.
INCLUSIVE.

COMPILED FROM AUTHENTIC MATERIALS.

WASHINGTON:

PRINTED AND PUBLISHED BY GALES AND SEATON.

.....
1855.

PROCEEDINGS AND DEBATES

OF

THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE SEVENTEENTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, MONDAY, DECEMBER 3, 1821.

MONDAY, December 3, 1821.

The first session of the Seventeenth Congress, conformably to the Constitution of the United States, commenced this day at the City of Washington, and the Senate assembled.

PRESENT:

DAVID L. MORRIL and JOHN F. PARROTT, from the State of New Hampshire.

ELIJAH BOARDMAN and JAMES LANMAN, from Connecticut.

JAMES D'WOLF and NEHEMIAH R. KNIGHT, from Rhode Island.

WILLIAM A. PALMER and HORATIO SEYMOUR, from Vermont.

RUFUS KING and MARTIN VAN BUREN, from New York.

MAHLON DICKERSON and SAMUEL L. SOUTHARD, from New Jersey.

WALTER LOWRIE, from Pennsylvania.

JAMES BARBOUR and JAMES PLEASANTS, from Virginia.

NATHANIEL MACON and MONTFORT STOKES, from North Carolina.

JOHN GAILLARD and WILLIAM SMITH, from South Carolina.

RICHARD M. JOHNSON, from Kentucky.

JOHN WILLIAMS and JOHN H. EATON, from Tennessee.

BENJAMIN RUGGLES, from Ohio.

JAMES BROWN and HENRY JOHNSON, from Louisiana.

JAMES NOBLE and WALLER TAYLOR, from Indiana.

DAVID HOLMES and THOMAS H. WILLIAMS, from Mississippi.

JESSE B. THOMAS, from Illinois.

JOHN CHANDLER and JOHN HOLMES, from Maine.

DAVID BARTON, from Missouri.

JOHN GAILLARD, President *pro tempore*, resumed the Chair.

ELIJAH BOARDMAN, appointed a Senator by the Legislature of the State of Connecticut, for the term of six years, commencing on the fourth day of March last; HORATIO SEYMOUR, appointed a Senator by the Legislature of the State of Ver-

mont, for the term of six years, commencing on the fourth day of March last; JAMES D'WOLF, appointed a Senator by the Legislature of the State of Rhode Island and Providence Plantations, for the term of six years, commencing on the fourth day of March last; MARTIN VAN BUREN, appointed a Senator by the Legislature of the State of New York, for the term of six years, commencing on the fourth day of March last; JOHN HENRY EATON, appointed a Senator by the Legislature of the State of Tennessee, for the term of six years, commencing on the fourth day of March last; DAVID HOLMES, appointed a Senator by the Legislature of the State of Mississippi, for the term of six years, commencing on the fourth day of March last; and DAVID BARTON, appointed a Senator by the Legislature of the State of Missouri, respectively produced their credentials, which were read; and the oath prescribed by law was administered to them, and they took their seats in the Senate.

The oath was also administered to Messrs. HOLMES, of Maine, SOUTHARD, BARBOUR, RUGGLES, and NOBLE; their credentials having been read and filed during the last session.

A quorum being present—

On motion, a committee was ordered to be appointed, jointly with such committee as should be appointed by the House of Representatives, to wait on the President of the United States, and inform him that the two Houses were assembled, and ready to receive any communication he might have to make.

On balloting for the committee, Messrs. MACON, of North Carolina, and KING, of New York, were appointed; and the Senate adjourned.

TUESDAY, December 4.

ISHAM TALBOT, from the State of Kentucky, took his seat in the Senate.

WEDNESDAY, December 5.

HARRISON GRAY OTIS, from the State of Massachusetts, took his seat in the Senate.

A message from the House of Representatives informed the Senate that a quorum of the House

SENATE.

President's Annual Message.

DECEMBER, 1821.

of Representatives is assembled, and have elected PHILIP P. BARBOUR, one of the Representatives from the State of Virginia, their Speaker, and THOMAS DOUGHERTY their Clerk, and are ready to proceed to business. They have appointed a committee on their part, to join the committee appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and ready to receive any communications he may be pleased to make to them.

Mr. MACON reported, from the joint committee, that they had waited on the President of the United States, and that the President informed the committee that he would make a communication to the two Houses this day.

Mr. LANMAN submitted the following motion for consideration; which was read, and passed to the second reading:

Resolved, That Mountjoy Bayly, Doorkeeper and Sergeant-at-Arms to the Senate, be, and he hereby is, authorized to employ one assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper of the Senate; which expense shall be paid out of the contingent fund.

Mr. MORRIL submitted the following motion for consideration, which was read, and passed to the second reading.

Resolved, That two Chaplains, of different denominations, be appointed to Congress, during the present session, one by each House, who shall interchange weekly.

PRESIDENT'S MESSAGE.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Fellow-citizens of the Senate
and of the House of Representatives:*

The progress of our affairs since the last session has been such as may justly be claimed and expected, under a Government deriving all its powers from an enlightened people, and under laws formed by their representatives, on great consideration, for the sole purpose of promoting the welfare and happiness of their constituents. In the execution of those laws, and of the powers vested by the Constitution in the Executive, unremitting attention has been paid to the great objects to which they extend. In the concerns which are exclusively internal, there is good cause to be satisfied with the result. The laws have had their due operation and effect. In those relating to foreign Powers, I am happy to state, that peace and amity are preserved with all, by a strict observance, on both sides, of the rights of each. In matters touching our commercial intercourse, where a difference of opinion has existed, as to the conditions on which it should be placed, each party has pursued its own policy, without giving just cause of offence to the other. In this annual communication, especially when it is addressed to a new Congress, the whole scope of our political concerns naturally comes into view; that errors, if such have been committed, may be corrected; that defects, which have become manifest, may be remedied; and, on the other hand, that measures which were adopted on due deliberation, and which experience has shown are just in themselves, and essential to the public welfare, should be persevered in and supported. In performing

this necessary and very important duty, I shall endeavor to place before you, on its merits, every subject that is thought to be entitled to your particular attention, in as distinct and clear a light as I may be able.

By an act of the 3d of March, 1815, so much of the several acts as imposed higher duties on the tonnage of foreign vessels, and on the manufactures and productions of foreign nations, when imported into the United States in foreign vessels, than when imported in vessels of the United States, were repealed, so far as respected the manufactures and productions of the nation to which such vessels belonged, on the condition, that the repeal should take effect only in favor of any foreign nation, when the Executive should be satisfied that such discriminating duties, to the disadvantage of the United States, had likewise been repealed by such nation. By this act a proposition was made to all nations to place our commerce with each on a basis which, it was presumed, would be acceptable to all. Every nation was allowed to bring its manufactures and productions into our ports, and to take the manufactures and productions of the United States back to their ports, in their own vessels, on the same conditions that they might be transported in vessels of the United States; and, in return, it was required that a like accommodation should be granted to the vessels of the United States in the ports of other Powers. The articles to be admitted, or prohibited on either side, formed no part of the proposed arrangement. Each party would retain the right to admit or prohibit such articles from the other, as it thought proper, and on its own conditions.

When the nature of the commerce between the United States and every other country was taken into view, it was thought that this proposition would be considered fair, and even liberal, by every Power. The exports of the United States consist generally of articles of the first necessity, and of rude materials in demand for foreign manufactories, of great bulk, requiring for their transportation many vessels, the return for which, in the manufactures and productions of any foreign country, even when disposed of there to advantage, may be brought in a single vessel. This observation is the more especially applicable to those countries from which manufactures alone are imported, but it applies in a great extent, to the European dominions of every European Power, and, in a certain extent, to all the colonies of those Powers. By placing, then, the navigation precisely on the same ground, in the transportation of exports and imports between the United States and other countries, it was presumed that all was offered which could be desired. It seemed to be the only proposition which could be devised, which would retain even the semblance of equality in our favor.

Many considerations of great weight gave us a right to expect that this commerce should be extended to the colonies, as well as to the European dominions, of other Powers. With the latter, especially with countries exclusively manufacturing, the advantage was manifestly on their side. An indemnity for that loss was expected from a trade with the colonies, and, with the greater reason, as it was known that the supplies which the colonies derived from us were of the highest importance to them, their labor being bestowed with so much greater profit in the culture of other articles; and because, likewise, the articles, of which those supplies consisted, forming so large a proportion of the exports of the United States, were never

DECEMBER, 1821.

President's Annual Message.

SENATE.

admitted into any of the ports of Europe, except in cases of great emergency, to avert a serious calamity. When no article is admitted which is not required to supply the wants of the party admitting it, and admitted then, not in favor of any particular country, to the disadvantage of others, but on conditions equally applicable to all, it seems just that the articles thus admitted and invited should be carried thither in the vessels of the country affording such supply, and that the reciprocity should be found in a corresponding accommodation on the other side. By allowing each party to participate in the transportation of such supplies, on the payment of equal tonnage, a strong proof was afforded of an accommodating spirit. To abandon to it the transportation of the whole would be a sacrifice which ought not to be expected. The demand, in the present instance, would be the more unreasonable, in consideration of the great inequality existing in the trade with the parent country.

Such was the basis of our system, as established by the act of 1815, and such its true character. In the year in which this act was passed, a treaty was concluded with Great Britain, in strict conformity with its principles, in regard to her European dominions. To her colonies, however, in the West Indies and on this continent, it was not extended, the British Government claiming the exclusive supply of those colonies, and from our own ports, and of the productions of the colonies in return, in her own vessels. To this claim the United States could not assent, and, in consequence, each party suspended the intercourse in the vessels of the other, by a prohibition, which still exists.

The same conditions were offered to France, but not accepted. Her Government has demanded other conditions more favorable to her navigation, and which should also give extraordinary encouragement to her manufactures and productions in ports of the United States. To these it was thought improper to accede, and, in consequence, the restrictive regulations, which had been adopted on her part, being countervailed on the part of the United States, the direct commerce between the two countries, in the vessels of each party, has been in a great measure suspended. It is much to be regretted, that, although a negotiation has been long pending, such is the diversity of views entertained, on the various points, which have been brought into discussion, that there does not appear to be any reasonable prospect of its early conclusion.

It is my duty to state, as a cause of very great regret, that very serious differences have occurred in this negotiation, respecting the construction of the eighth article of the treaty of 1803, by which Louisiana was ceded to the United States, and likewise respecting the seizure of the *Apollo*, in 1820, for a violation of our revenue laws. The claim of the Government of France has excited not less surprise than concern, because there does not appear to be a just foundation for it in either instance. By the eighth article of the treaty referred to, it is stipulated that, after the expiration of twelve years, during which time it was provided, by the seventh or preceding article, that the vessels of France and Spain should be admitted into the ports of the ceded territory, without paying higher duties on merchandise, or tonnage on the vessels, than such as were paid by citizens of the United States, the ships of France should forever afterwards be placed on the footing of the most favored nation. By the obvious construction of this article, it is presumed that

it was intended that no favor should be granted to any Power, in those ports, to which France should not be forthwith entitled; nor should any accommodation be allowed to another Power, on conditions to which she would not, also, be entitled on the same conditions. Under this construction, no favor or accommodation could be granted to any Power to the prejudice of France. By allowing the equivalent allowed by those Powers, she would always stand, in those ports, on the footing of the most favored nation. But, if this article should be so construed as that France should enjoy, of right, and without paying the equivalent, all the advantages of such conditions as might be allowed to other Powers, in return for important concessions made by them, then the whole character of the stipulation would be changed. She would not be placed on the footing of the most favored nation, but on a footing held by no other nation. She would enjoy all advantages allowed to them, in consideration of like advantages allowed to us, free from every, and any, condition whatever.

As little cause has the Government of France to complain of the seizure of the *Apollo*, and the removal of other vessels, from the waters of the *St. Mary's*. It will not be denied, that every nation has a right to regulate its commercial system as it thinks fit, and to enforce the collection of its revenue, provided it be done without an invasion of the rights of other Powers. The violation of its revenue laws is an offence which all nations punish—the punishment of which, gives no just cause of complaint to the Power to which the offenders belong, provided it be extended to all equally. In this case, every circumstance which occurred indicated a fixed purpose to violate our revenue laws. Had the party intended to have pursued a fair trade, he would have entered our ports, and paid the duties; or, had he intended to carry on a legitimate circuitous commerce with the United States, he would have entered the port of some other Power, landed his goods at the custom-house according to law, and reshipped and sent them in the vessel of such Power, or of some other Power which might lawfully bring them, free from such duties, to a port of the United States. But the conduct of the party in this case was altogether different. He entered the river *St. Mary's*, the boundary line between the United States and Florida, and took his position on the Spanish side, on which, in the whole extent of the river, there was no town, no port, no custom-house, and scarcely any settlement. His purpose, therefore, was not to sell his goods to the inhabitants of Florida, but to citizens of the United States, in exchange for their productions, which could not be done without a direct and palpable breach of our laws. It is known that a regular systematic plan had been formed by certain persons for the violation of our revenue system, which made it the more necessary to check the proceeding in its commencement.

That the unsettled bank of a river so remote from the Spanish garrisons and population could give no protection to any party, in such a practice, is believed to be in strict accord with the law of nations. It would not have comported with a friendly policy, in Spain herself, to have established a custom-house there, since it could have subverted no other purpose than to elude our revenue law. But, the Government of Spain did not adopt that measure. On the contrary, it is understood, that the Captain General of Cuba, to whom an application to that effect was made,

by these adventurers, had not acceded to it. The condition of those provinces for many years before they were ceded to the United States, need not, now, be dwelt on. Inhabited by different tribes of Indians, and an inroad for every kind of adventurer, the jurisdiction of Spain may be said to have been, almost exclusively, confined to her garrisons. It certainly could not extend to places where she had no authority. The rules, therefore, applicable to settled countries, governed by laws, could not be deemed so, to the deserts of Florida, and to the occurrences there. It merits attention, also, that the territory had then been ceded to the United States by a treaty, the ratification of which had not been refused, and which has since been performed. Under any circumstances, therefore, Spain became less responsible for such acts committed there, and the United States more at liberty to exercise authority to prevent so great a mischief. The conduct of this Government has, in every instance, been conciliatory and friendly to France. The construction of our revenue law, its application to the cases which have formed the ground of such serious complaint on her part, and the order to the Collector of St. Mary's, in accord with it, were given two years before these cases occurred, and in reference to a breach which was attempted by the subjects of another Power. The application, therefore, to the case in question, was inevitable. As soon as the treaty, by which these provinces were ceded to the United States, was ratified, and all danger of further breach of our revenue laws ceased, an order was given for the release of the vessel, which had been seized, and for the dismissal of the libel which had been instituted against her.

The principles of this system of reciprocity, founded on the law of the 3d of March, 1815, have been since carried into effect with the kingdoms of the Netherlands, Sweden, Prussia, and with Hamburg, Bremen, Lubeck, and Oldenburg, with a provision made by subsequent laws, in regard to the Netherlands, Prussia, Hamburg, and Bremen, that such produce and manufactures, as could only be, or most usually were, first shipped from the ports of those countries, the same being imported in vessels wholly belonging to their subjects, should be considered and admitted as their own manufactures and productions.

The Government of Norway has, by an ordinance, opened the ports of that part of the dominions of the King of Sweden, to the vessels of the United States, upon the payment of no other or higher duties than are paid by Norwegian vessels, from whatever place arriving, and with whatever articles laden. They have requested the reciprocal allowances for the vessels of Norway in the ports of the United States. As this privilege is not within the scope of the act of the 3d of March, 1815, and can only be granted by Congress, and as it may involve the commercial relations of the United States with other nations, the subject is submitted to the wisdom of Congress.

I have presented thus fully to your view our commercial relations with other Powers, that, seeing them in detail with each Power, and knowing the basis on which they rest, Congress may, in its wisdom, decide whether any change ought to be made, and, if any, in what respect. If this basis is unjust or unreasonable, surely it ought to be abandoned; but if it be just and reasonable, and any change in it will make concessions subversive of equality, and tending in its consequences to sap the foundations of our prosperity, then the reasons are equally strong, for adhering to the ground

already taken, and supporting it by such further regulations as may appear to be proper, should any additional support be found necessary.

The question concerning the construction of the first article of the Treaty of Ghent has been, by a joint act of the representatives of the United States, and of Great Britain, at the Court of St. Petersburg, submitted to the decision of his Imperial Majesty the Emperor of Russia. The result of that submission has not yet been received. The Commissioners under the fifth article of that treaty not having been able to agree upon their decision, their reports to the two Governments, according to the provisions of the treaty, may be expected at an early day.

With Spain, the treaty of February 22, 1819, has been partly carried into execution. Possession of East and West Florida has been given to the United States, but the officers charged with that service, by an order from His Catholic Majesty, delivered by his Minister to the Secretary of State, and transmitted by a special agent to the Captain General of Cuba, to whom it was directed, and in whom the government of those provinces was vested, have not only omitted, in contravention of the order of their Sovereign, the performance of the express stipulation, to deliver over the archives and documents relating to the property and sovereignty of those provinces, all of which it was expected would have been delivered, either before or when the troops were withdrawn, but defeated, since, every effort of the United States to obtain them, especially those of the greatest importance. This omission has given rise to several incidents of a painful nature, the character of which will be fully disclosed, by the documents which will be hereafter communicated.

In every other circumstance, the law of the 3d of March last, for carrying into effect that treaty, has been duly attended to. For the execution of that part which preserved in force, for the government of the inhabitants, for the term specified, all the civil, military, and judicial powers, exercised by the existing Government of those provinces, an adequate number of officers, as was presumed, were appointed, and ordered to their respective stations. Both provinces were formed into one territory, and a Governor appointed for it; but, in consideration of the pre-existing division, and of the distance and difficulty of communication between Pensacola, the residence of the Governor of West Florida, and St. Augustine, that of the Governor of East Florida, at which places the inconsiderable population of each province was principally collected, two Secretaries were appointed, the one to reside at Pensacola, and the other at St. Augustine. Due attention was likewise paid to the execution of the laws of the United States relating to the revenue and the slave trade, which were extended to these provinces. The whole territory was divided into three collection districts, that part lying between the river St. Mary's and Cape Florida, forming one; that from the Cape to the Apalachicola, another; and that from the Apalachicola to the Perdido, the third. To these districts the usual number of revenue officers were appointed; and, to secure the due operation of these laws, one judge and a district attorney were appointed, to reside at Pensacola, and, likewise, one judge and a district attorney to reside at St. Augustine, with a specified boundary between them; and one marshal for the whole, with authority to appoint a deputy. In carrying this law into effect, and especially that part relating to the powers of the existing government of

DECEMBER, 1821.

President's Annual Message.

SENATE.

those provinces, it was thought important, in consideration of the short term for which it was to operate, and the radical change which would be made at the approaching session of Congress, to avoid expense, to make no appointment which should not be absolutely necessary to give effect to those powers, to withdraw none of our citizens from their pursuits, whereby to subject the Government to claims which could not be gratified, and the parties to losses, which it would be painful to witness.

It has been seen, with much concern, that, in the performance of these duties, a collision arose between the Governor of the Territory and the judge appointed for the western district. It was presumed that the law under which this transitory government was organized, and the commissions which were granted to the officers, who were appointed to execute each branch of the system, and to which the commissions were adapted, would have been understood in the same sense, by them, in which they were understood by the Executive. Much allowance is due to officers employed in each branch of this system, and the more so, as there is good cause to believe that each acted under the conviction, that he possessed the power which he undertook to exercise. Of the officer holding the principal station, I think it proper to observe, that he accepted it with reluctance, in compliance with the invitation given him, and from a high sense of duty to his country, being willing to contribute to the consummation of an event which would insure complete protection to an important part of our Union, which had suffered much, from incursion and invasion, and to the defence of which his very gallant and patriotic services had been so signally and usefully devoted.

From the intrinsic difficulty of executing laws deriving their origin from different sources, and so essentially different in many important circumstances, the advantage, and, indeed, the necessity, of establishing, as soon as may be practicable, a well organized government over that Territory, on the principles of our system, is apparent. This subject is therefore recommended to the early consideration of Congress.

In compliance with an injunction of the law of the 3d of March last, three Commissioners have also been appointed, and a board organized for carrying into effect the eleventh article of the treaty above recited, making provision for the payment of such of our citizens, as have well-founded claims on Spain, of the character specified by that treaty. This board has entered on its duties, and made some progress therein. The Commissioner and Surveyor of His Catholic Majesty, provided for by the fourth article of the treaty, have not yet arrived in the United States, but are soon expected. As soon as they do arrive, corresponding appointments will be made, and every facility be afforded, for the due execution of this service.

The Government of His Most Faithful Majesty, since the termination of the last session of Congress, has been removed from Rio de Janeiro to Lisbon, where a revolution, similar to that which had occurred in the neighboring kingdom of Spain, had, in like manner, been sanctioned by the accepted and pledged faith of the reigning Monarch. The diplomatic intercourse between the United States and the Portuguese dominions, interrupted by this important event, has not yet been resumed, but the change of internal administration having already materially affected the commercial intercourse of the United States with the Portuguese dominions, the renewal of the public mis-

sions between the two countries appears to be desirable at an early day.

It is understood that the colonies in South America have had great success during the present year, in the struggle for their independence. The new Government of Colombia has extended its territories, and considerably augmented its strength; and, at Buenos Ayres, where civil dissensions had for some time before prevailed, greater harmony and better order appear to have been established. Equal success has attended their efforts in the provinces on the Pacific. It has long been manifest that it would be impossible for Spain to reduce these colonies by force, and equally so that no conditions short of their independence would be satisfactory to them. It may therefore be presumed, and it is earnestly hoped, that the Government of Spain, guided by enlightened and liberal counsels, will find it to comport with its interests, and due to its magnanimity, to terminate this exhausting controversy on that basis. To promote this result, by friendly counsel with the Government of Spain, will be the object of the Government of the United States.

In conducting the fiscal operations of the year, it has been found necessary to carry into full effect the act of the last session of Congress, authorizing a loan of five millions of dollars. This sum has been raised at an average premium of five dollars fifty-nine hundredths per centum, upon stock bearing an interest at the rate of five per cent. per annum, redeemable at the option of the Government after the first day of January, one thousand eight hundred and thirty-five.

There has been issued, under the provisions of this act, four millions seven hundred and thirty-five thousand two hundred and ninety-six dollars and thirty cents, of five per cent. stock; and there has been, or will be, redeemed, during the year, three millions one hundred and ninety-seven thousand thirty dollars and seventy-one cents of Louisiana six per cent. deferred stock and Mississippi stock. There has therefore been an actual increase of the public debt, contracted during the year, of one million five hundred and thirty-eight thousand two hundred and sixty-six dollars and sixty-nine cents.

The receipts into the Treasury, from the first of January to the 30th of September last, have amounted to sixteen millions two hundred and nineteen thousand one hundred and ninety-seven dollars and seventy cents, which, with the balance of one million one hundred and ninety-eight thousand four hundred and sixty-one dollars and twenty-one cents, in the Treasury on the former day, make the aggregate sum of seventeen millions four hundred and seventeen thousand six hundred and fifty-eight dollars and ninety-one cents.

The payments from the Treasury during the same period have amounted to fifteen millions six hundred and fifty-five thousand two hundred and eighty-eight dollars forty-seven cents, leaving in the Treasury, on the last mentioned day, the sum of one million seven hundred and sixty-two thousand three hundred and seventy dollars forty-four cents. It is estimated that the receipts of the fourth quarter of the year will exceed the demands which will be made on the Treasury during the same period, and that the amount in the Treasury on the 30th of September last will be increased on the first day of January next.

At the close of the last session, it was anticipated that the progressive diminution of the public revenue

in 1819 and 1820, which had been the result of the languid state of our foreign commerce in those years, had, in the latter year, reached its extreme point of depression. It has, however, been ascertained that that point was reached only at the termination of the first quarter of the present year. From that time until the 20th of September last, the duties secured have exceeded those of the corresponding quarters of the last year, one million one hundred and seventy-two thousand dollars; whilst the amount of debentures, issued during the three first quarters of this year, is nine hundred and fifty-two thousand dollars less than that of the same quarters of the last year.

There are just grounds to believe that the improvement which has occurred in the revenue, during the last mentioned period, will not only be maintained, but that it will progressively increase through the next and several succeeding years, so as to realize the results which were presented upon that subject, by the official reports of the Treasury, at the commencement of the last session of Congress.

Under the influence of the most unfavorable circumstances, the revenue, for the next and subsequent years, to the year 1825, will exceed the demands at present authorized by law.

It may fairly be presumed, that, under the protection given to domestic manufactures, by the existing laws, we shall become, at no distant period, a manufacturing country, on an extensive scale. Possessing, as we do, the raw materials in such vast amount, with a capacity to augment them to an indefinite extent; raising within the country aliment of every kind, to an amount far exceeding the demand for home consumption, even in the most unfavorable years, and to be obtained always at a very moderate price; skilled also, as our people are, in the mechanic arts, and in every improvement calculated to lessen the demand for, and the price of, labor, it is manifest that their success, in every branch of domestic industry, may and will be carried, under the encouragement given by the present duties, to an extent to meet any demand, which, under a fair competition, may be made upon it.

A considerable increase of domestic manufactures, by diminishing the importation of foreign, will probably tend to lessen the amount of the public revenue. As, however, a large proportion of the revenue which is derived from duties, is raised from other articles than manufactures, the demand for which will increase with our population, it is believed, that a fund will still be raised from that source adequate to the greater part of the public expenditures, especially as those expenditures, should we continue to be blessed with peace, will be diminished by the completion of the fortifications, dock-yards, and other public works; by the augmentation of the Navy to the point to which it is proposed to carry it; and by the payment of the public debt, including pensions for military services.

It cannot be doubted, that the more complete our internal resources, and the less dependent we are on foreign Powers, for every national, as well as domestic purpose, the greater and more stable will be the public felicity. By the increase of domestic manufactures will the demand for the rude materials at home be increased, and thus will the dependence of the several parts of our Union on each other, and the strength of the Union itself, be proportionably augmented. In this process, which is very desirable, and inevitable under the existing duties, the resources which obviously present themselves to supply a deficiency in the

revenue, should it occur, are the interests which may derive the principal benefit from the change. If domestic manufactures are raised by duties on foreign, the deficiency in the fund necessary for public purposes should be supplied by duties on the former. At the last session it seemed doubtful whether the revenue derived from the present sources would be adequate to all the great purposes of our Union, including the construction of our fortifications, the augmentation of the Navy, and the protection of our commerce against the dangers to which it is exposed. Had the deficiency been such as to subject us to the necessity, either to abandon those measures of defence, or to resort to other means for adequate funds, the course presented to the adoption of a virtuous and enlightened people appeared to be a plain one. It must be gratifying to all to know that this necessity does not exist. Nothing, however, in contemplation of such important objects, which can be easily provided for, should be left to hazard. It is thought that the revenue may receive an augmentation from the existing sources, and in a manner to aid our manufactures, without hastening prematurely the result which has been suggested. It is believed that a moderate additional duty on certain articles would have that effect, without being liable to any serious objection.

The examination of the whole coast, for the construction of permanent fortifications, from St. Croix to the Sabine, with the exception of part of the territory lately acquired, will be completed in the present year, as will be the survey of the Mississippi, under the resolution of the House of Representatives, from the mouth of the Ohio to the ocean—and, likewise, of the Ohio, from Louisville to the Mississippi. A progress, corresponding with the sums appropriated, has also been made in the construction of these fortifications at the points designated. As they will form a system of defence for the whole maritime frontier, and, in consequence, for the interior, and are to last for ages, the greatest care has been taken to fix the position of each work, and to form it on such a scale as will be adequate for the purpose intended by it. All the inlets and assailable parts of our Union have been minutely examined, and positions taken, with a view to the best effect, observing, in every instance, a just regard for economy. Doubts, however, being entertained, as to the propriety of the position and extent of the work at Dauphin Island, further progress in it was suspended, soon after the last session of Congress, and an order given to the Board of Engineers and Naval Commissioners to make a further and more minute examination of it, in both respects, and to report the result, without delay.

Due progress has been made in the construction of vessels of war, according to the law providing for the gradual augmentation of the Navy, and to the extent of existing appropriations. The vessels authorized by the act of 1820 have all been completed, and are now in actual service. None of the larger ships have been, or will be, launched, for the present, the object being to protect all which may not be required for immediate service, from decay, by suitable buildings erected over them. A squadron has been maintained, as heretofore, in the Mediterranean, by means whereof peace has been preserved with the Barbary Powers. This squadron has been reduced the present year to as small a force as is compatible with the fulfilment of the object intended by it. From past experience, and the best information respecting the views of those

DECEMBER, 1821.

Proceedings.

SENATE.

Powers, it is distinctly understood that, should our squadron be withdrawn, they would soon recommence their hostilities and depredations upon our commerce. Their fortifications have lately been rebuilt, and their maritime force increased. It has also been found necessary to maintain a naval force on the Pacific, for the protection of the very important interests of our citizens engaged in commerce and the fisheries in that sea. Vessels have likewise been employed in cruising along the Atlantic coast, in the Gulf of Mexico, on the coast of Africa, and in the neighbouring seas. In the latter, many piracies have been committed on our commerce, and so extensive was becoming the range of those unprincipled adventurers, that there was cause to apprehend, without a timely and decisive effort to suppress them, the worst consequences would ensue. Fortunately, a considerable check has been given to that spirit by our cruisers, who have succeeded in capturing and destroying several of their vessels. Nevertheless, it is considered an object of high importance to continue these cruisers until the practice is entirely suppressed. Like success has attended our efforts to suppress the slave-trade. Under the flag of the United States, and the sanction of their papers, the trade may be considered as entirely suppressed; and, if any of our citizens are engaged in it, under the flag and papers of other Powers, it is only from a respect to the rights of those Powers, that these offenders are not seized and brought home, to receive the punishment which the laws inflict. If every other Power should adopt the same policy, and pursue the same vigorous means for carrying it into effect, the trade could no longer exist.

Deeply impressed with the blessings which we enjoy, and of which we have such manifold proofs, my mind is irresistibly drawn to that Almighty being, the great source from whence they proceed, and to whom our most grateful acknowledgments are due.

JAMES MONROE.

WASHINGTON, Dec. 5, 1821.

The Message and accompanying documents were read, and three thousand copies of the Message ordered to be printed for the use of the Senate.

THURSDAY, December 6.

THOMAS H. BENTON, appointed a Senator by the Legislature of the State of Missouri, produced his credentials, was qualified, and he took his seat in the Senate.

The resolution authorizing the Sergeant-at-Arms to employ an assistant and two horses was read the second time, and considered as in Committee of the Whole, and having been reported to the House without amendment, was ordered to be engrossed and read a third time.

The resolution for the appointment of Chaplains, yesterday submitted, was considered and agreed to.

On motion by Mr. PARROTT,

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of Missouri shall be inserted, in conformity to the resolution of the 14th of May, 1789, and as the Constitution requires.

That the Secretary put into the ballot-box two papers of equal size, one of which shall be num-

bered two, and the other shall be numbered three, and each Senator shall draw out one paper; that the Senator who shall draw the paper numbered two shall be inserted in the class of Senators whose term of service will expire on the third day of March, 1825; and that the Senator who shall draw the paper numbered three, shall be inserted in the class of Senators whose term of service will expire on the 3d day of March, 1827.

Whereupon, the numbers abovementioned were, by the Secretary, rolled up and put into the box; when Mr. BARTON drew number two, and is accordingly of the class of Senators whose terms of service will expire on the 3d of March, 1825; and Mr. BENTON drew number three, and is accordingly of the class of Senators whose terms of service will expire on the 3d of March, 1827.

On motion by Mr. LOWRIE, two thousand copies of the documents accompanying the Message of the President of the United States, of the 5th instant, were ordered to be printed for the use of the Senate.

Mr. DICKERSON submitted the following motion for consideration, which was read and passed to the second reading:

Resolved, That a committee of three members be appointed, who, with three members of the House of Representatives, to be appointed by that House, shall have the direction of the money appropriated to the purchase of books and maps, for the use of the two Houses of Congress.

After adopting the usual orders for supplying the members with newspapers, &c., the Senate adjourned to Monday.

MONDAY, December 10.

JOHN ELLIOTT, from the State of Georgia, who arrived on the 7th, and also JOHN W. WALKER, from the State of Alabama, who arrived on the 8th instant, severally attended this day.

Mr. BARBOUR submitted the following motion for consideration:

Resolved, That the Senate will, on Wednesday next, at 12 o'clock, proceed to the appointment of the standing committees of this House,

The resolution authorizing the Doorkeeper and Sergeant-at-Arms to employ an assistant and horses, was read a third time, and passed.

The Senate resumed the consideration of the resolution for the appointment of a joint committee on the arrangements for the Library of Congress; and, having agreed thereto, Messrs. DICKERSON, WALKER, and ELLIOTT, were appointed the committee.

Mr. WILLIAMS, of Tennessee, asked and obtained leave, by unanimous consent, to bring in a bill authorizing the transmission of certain documents free of postage, and the bill was twice read by unanimous consent, and considered as in Committee of the Whole, and no amendment having been made thereto, it was reported to the House, read a third time, and passed.

On motion, the Senate adjourned until to-morrow.

TUESDAY, December 11.

NICHOLAS WARE, appointed a Senator by the Legislature of the State of Georgia, to fill the vacancy occasioned by the resignation of Freeman Walker, produced his credentials, was qualified, and he took his seat in the Senate.

WILLIAM R. KING, from the State of Alabama, who arrived on the 6th instant, attended this day.

A message from the House of Representatives informed the Senate that they have concurred in the resolution of the Senate for the appointment of Chaplains, and have appointed the Rev. JARED SPARKS Chaplain on their part.

Mr. JOHNSON, of Kentucky, gave notice that tomorrow he should ask leave to bring in a resolution proposing an amendment to the Constitution of the United States.

On motion by Mr. EATON, that the rules of the Senate be referred to a select committee, with instructions to expunge so much thereof as relates to standing committees, it was determined in the negative.

The Senate resumed the consideration of the motion for the appointment of the standing committees of this House; and

Resolved, That the Senate will, on Thursday next, at 12 o'clock, proceed to the appointment of the standing committees of this House.

On motion, by Mr. BARBOUR, the Senate proceeded to the election of a Chaplain on their part; and, on counting the ballots, it appeared that the Rev. WILLIAM RYLAND was duly elected.

WEDNESDAY, December 12.

AMENDMENT TO THE CONSTITUTION.

Mr. JOHNSON, of Kentucky, agreeably to the notice which he gave yesterday, having obtained leave, introduced the following resolution, proposing an amendment to the Constitution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the following amendment to the Constitution of the United States, be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid to all intents and purposes, as part of the said Constitution:

That, in all controversies where the judicial power of the United States shall be so construed as to extend to any case in law or equity, arising under this Constitution, the laws of the United States, or treaties made, or which shall be made, under their authority, and to which a State shall be a party; and in all controversies in which a State may desire to become a party, in consequence of having the Constitution or laws of such State questioned, the Senate of the United States shall have appellate jurisdiction.

Mr. JOHNSON said, when he yesterday gave notice of his intention to make this proposition, he stated that it had originated from serious consequences, which had lately taken place between several of the States and the judiciary of the United States. More especially a late decision of that court, which had declared unconstitutional a certain act of the Kentucky Legislature, called

the Occupying Claimant Law, which would overturn the deliberate policy of the State for upwards of ten years past, the object of which was the settlement of conflicting land claims, which had been a serious evil to the prosperity of the State, and, if persisted in, would produce the most disastrous consequences in giving rise to much litigation where questions had been settled for years, and put every thing respecting landed property into the greatest confusion. He stated that no common consideration would ever induce him to propose an amendment to the Constitution, but he considered the causes which had induced him to ask leave to propose his amendment, of no ordinary magnitude; he was not prepared to say that this was the best remedy that could be proposed, but he would say, that it was the duty of Congress to look into the matter before the subject assumed a more serious character, and it was for that object that he determined to introduce the amendment.

On offering this resolution to-day, Mr. J. further said, that, on yesterday, when he had given notice to the Senate that he would ask leave to introduce the amendment to the Constitution on a subject so vitally important to the harmony of the United States, he did not know, nor did he have the most distant intimation, that he should be anticipating the wishes of the Kentucky Legislature—the body which he had the honor in part to represent. But he was happy to discover that a resolution had been introduced into the Legislature of that State, declaring that the Senate of the United States, or some other tribunal, should be created to take appellate jurisdiction in cases where a State is concerned in judicial controversies in the courts of the United States. He expressed a most decided preference for the Senatorial body, where all the States were equally represented; and whatever was thus decided, without the trouble or expense of another tribunal, would be likely to quiet public excitement where a State considered her rights violated by the judgment of the Federal judiciary.

Mr. BARBOUR, of Virginia, rose to second the motion of his honorable friend, not from any apprehension that opposition would be made to the leave asked, because that would be a departure from the comity universally manifested to every member who tendered for consideration a subject of interest, but merely to bear testimony to its importance, and to the necessity that exists of a thorough investigation of the subject. There are, said he, other decisions which have been made by the Supreme Court, beside the decision on the occupancy law, alluded to by his friend, which have produced considerable excitement, and to allay which, if practicable, well becomes the wisdom of the Senate. I am very far from expressing an opinion for or against the proposed amendment. In a case of such consequence, opinions ought to be formed only after the most serious deliberation. That an evil exists in the collisions between the constituent members of our Union and the Federal authority, as to the sphere of the powers of the latter, must be admitted, and is a just subject of

DECEMBER, 1821.

Death of Mr. Trimble—Standing Committees.

SENATE.

deep regret. The investigation growing out of the proposed resolution may eventuate in its rejection, as being more inconvenient in its consequences than the Constitution as now construed; or, on the other hand, it may be adopted as an effectual remedy to the existing evil—or, perhaps, by eliciting the whole wisdom of the Senate on this interesting subject, some other plan may be devised that will obviate the existing difficulties, give satisfaction to those now disquieted, and restore that confidence and good will, on which alone, to any beneficial result, our institutions must rest.

The resolution was twice read by general consent; and, on motion of Mr. HOLMES, of Maine, it was made the order of the day for the second Monday in January.

The Senate then adjourned.

THURSDAY, December 13.

The PRESIDENT communicated a report of the Secretary of the Treasury, prepared in obedience to the act, entitled "An act supplementary to the act to establish the Treasury Department;" which was read, and one thousand copies thereof ordered to be printed for the use of the Senate.

DEATH OF MR. TRIMBLE.

Mr. RUGGLES announced the death of WILLIAM A. TRIMBLE, a Senator from the State of Ohio, who deceased this morning.

On motion, by Mr. TALBOT,

Resolved, That a committee be appointed to take order for superintending the funeral of the honorable William A. Trimble, and that the Senate will attend the same, and that notice of the event be given to the House of Representatives.

Ordered, That MESSRS. BARBOUR, LOWRIE, NOBLE, TALBOT, and THOMAS, be the committee.

On motion, by Mr. TALBOT,

Resolved, unanimously, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the honorable William A. Trimble, deceased, late a member thereof, will go into mourning for him one month by the usual mode of wearing a crape round the left arm.

On motion, by Mr. TALBOT,

Resolved, unanimously, That, as an additional mark of respect for the memory of the honorable William A. Trimble, the Senate do now adjourn.

And the Senate adjourned.

FRIDAY, December 14.

ELIJAH H. MILLS, from the State of Massachusetts, whose credentials were read and filed during the last session, and who arrived on the 12th inst., attended this day, was qualified, and took his seat in the Senate.

The Senate adjourned to Monday.

MONDAY, December 17.

NICHOLAS VAN DYKE, from the State of Delaware, who arrived on the 15th instant, attended this day.

WILLIAM FINDLAY, appointed a Senator by the Legislature of the Commonwealth of Pennsylvania, for the term of six years, commencing on the fourth day of March last, produced his credentials, was qualified, and took his seat in the Senate.

On motion of Mr. RUGGLES, the President of the Senate was requested to notify the Executive of the State of Ohio of the death of the honorable WILLIAM A. TRIMBLE, late a Senator of the United States from that State.

Mr. BARBOUR gave notice that to-morrow he should ask leave to introduce a resolution, proposing an amendment to the Constitution of the United States, so as to limit the number of members of which the House of Representatives shall consist.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to Congress a letter from the Secretary of the Treasury, enclosing the report of the Commissioners appointed in conformity with the provisions of "An act to authorize the building of lighthouses therein mentioned, and for other purposes," approved the 3d of March, 1821. JAMES MONROE.

WASHINGTON, Dec. 16, 1821.

The Message and accompanying documents were read.

Mr. JOHNSON, of Kentucky, submitted the following motion for consideration:

Resolved, That a select committee be appointed to inquire into the expediency of providing for the preservation and repairing the National turnpike road, beginning at Cumberland, on the Potomac, and terminating at Wheeling, on the Ohio; river and that they have leave to report by bill or otherwise.

STANDING COMMITTEES.

According to order, the Senate proceeded to the appointment, by ballot, of the several standing committees; and the committees were composed as follows:

On Foreign Relations—MESSRS. KING, of New York, MACON, BROWN, BARBOUR, and ELLIOTT.

On Finance—MESSRS. HOLMES, of Maine, EATON, MACON, VAN BUREN, and LOWRIE.

On Commerce and Manufactures—MESSRS. DICKERSON, RUGGLES, D'WOLF, LANMAN, and FINDLAY.

On Military Affairs—MESSRS. WILLIAMS, of Tennessee, TAYLOR, JOHNSON, of Kentucky, ELLIOTT, and CHANDLER.

On the Militia—MESSRS. NOBLE, STOKES, LANMAN, CHANDLER, and SEYMOUR.

On Naval Affairs—MESSRS. PLEASANTS, PARROTT, WILLIAMS, of Mississippi, WALKER, and WARE.

On the Public Lands—MESSRS. THOMAS, VAN DYKE, LOWRIE, EATON, and BENTON.

On Indian Affairs—MESSRS. JOHNSON, of Louisiana, KING, of Alabama, JOHNSON, of Kentucky, BENTON, and HOLMES, of Mississippi.

On Claims—MESSRS. RUGGLES, MORRIL, VAN DYKE, BARTON, and BOARDMAN.

On the Judiciary—MESSRS. SMITH, HOLMES, of Maine, OTIS, SOUTHARD, and VAN BUREN.

On the Post Office—MESSRS. STOKES, PALMER, CHANDLER, BARTON, and KING, of Alabama.

On Pensions—Messrs. NOBLE, EATON, SEYMOUR, ELLIOTT, and WARE.

On the District of Columbia—Messrs. BARBOUR, LANMAN, LLOYD, SOUTHARD, and D'WOLF.

On Accounts—Messrs. LANMAN, MACON, and LOWRIE.

TUESDAY, December 18.

Mr. DICKERSON gave notice that to-morrow he should ask leave to introduce a resolution, proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of the President and Vice President of the United States, and the election of Representatives in the Congress of the United States.

Mr. HOLMES, of Maine, presented the petition of Daniel Merrill, a citizen of the United States, praying compensation for services rendered during the Revolutionary war, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. EATON presented the petition of R. P. Cur-
rin, and others, praying the confirmation of their title to certain lands; and the petition was read, and referred to the Committee on Public Lands.

Mr. JOHNSON, of Louisiana, gave notice that to-morrow he should ask leave to introduce a bill, supplementary to the several acts for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans.

The resolution submitted by Mr. JOHNSON, of Kentucky, on the 17th instant, was taken up for consideration, as follows:

Resolved, That a committee be appointed to inquire into the expediency of providing for the preservation and repairing the National Turnpike, beginning at Cumberland, on the Potomac, and terminating at Wheeling, on the Ohio river; and that they have leave to report by bill or otherwise.

Some conversation took place in regard to the form of this resolution, in which Mr. OTIS objected to the authority to report by bill being given as proposed. The conversation resulted in Mr. JOHNSON's modifying his proposition, so as to read as follows:

Resolved, That a committee be appointed on Roads and Canals.

Thus modified, the resolve was agreed to by the Senate, and Messrs. JOHNSON, of Kentucky, KING, of New York, LOWRIE, MACON, and MILLS, were appointed a committee accordingly.

SUBSISTENCE OF THE ARMY.

Mr. WILLIAMS, of Tennessee, moved the following resolution;

Resolved, That the President of the United States be requested to cause to be laid before the Senate a report of the practical operation of the system of subsisting the Army, under the provisions of the act passed the 14th of April, 1818, together with a comparative view of the present and former modes of supplying the Army.

In offering this resolve, Mr. W. remarked, that many gentlemen present would recollect that the act commonly called the "Staff bill" had engaged

the attention of Congress for several sessions, and its passage for some time had been successfully resisted. The gentlemen opposed to it warned us against innovation; they predicted that the troops would not be well supplied, that each ration would cost the Government at least fifty cents, and that the public money would be wasted. Others, who were not alarmed at these predictions, contended that the contract system was as wrong in principle as it had been ruinous in practice; that all laws ought to be so framed, that it should be the interest as well as the duty of every one to execute them; that it was the interest of the contractor to issue the cheapest provisions which could be had, and at places where he made the greatest profit; his interest being in direct collision with the Government, he seldom failed to pursue it to the great injury of the country. The contractors being exempt from martial law, they availed themselves of this immunity, and did at pleasure paralyze the operations of the Army. The remedy provided by law, of a suit on the contractor's bond, had proved ineffectual, because there was no tribunal which could at the same time issue an injunction to stay the appetites of hungry soldiers. Most of the disappointments, vexations, and defeats, experienced during the progress of the late war, could be traced directly to the then defective staff; which seemed to be adhered to in despite of experience, and purely on account of its wretched deformity. I hazard but little when I say, that one-third of the expense of the late war would have been saved to this nation, if we had had at its commencement well organized commissariat and quartermaster's departments. Independently of the great saving of national debt, we should have preserved the lives of at least one-half of those who perished by disease. My object in offering this resolution, at the early stage of the session, is to obtain a faithful report from the proper department of the practical operation of the commissariat system, which will enable us to judge of its merits. This report will prove that all the anticipations of the friends of the new system have been more than realized; that the troops have been better fed at a little more than half the former expense. I am desirous, if there should have been any abuses under the new system, that they will be exposed; and I invite gentlemen to a strict scrutiny of every thing connected with this subject, as I intend to introduce a bill to make the Staff act, which was limited to five years, a permanent law.

The motion of Mr. W. lies on the table one day of course.

Mr. BARTON gave notice that to-morrow he should ask leave to introduce a bill, concerning the lands and salt springs to be granted to the State of Missouri, for the purposes of education, and for other public uses.

AMENDMENT TO THE CONSTITUTION.

Agreeably to notice given, Mr. BARBOUR asked and obtained leave to introduce a resolution proposing an amendment to the Constitution of the United States, so as to limit the number of Representatives in the Congress of the United States;

DECEMBER, 1821.

Amendment to the Constitution.

SENATE.

and the resolution was read, and passed to the second reading.

On introducing his proposition, Mr. BARBOUR said, before he obtained the leave asked, to introduce so important a measure as the one he was about to propose, it would be expected that he should assign at least some of the reasons which had induced him to present the subject to the consideration of the House. Before he did so, however, he owed to himself, and to the body whose structure was the subject of the resolution, to make a few explanatory remarks.

Mr. B. said, that in taking this step he had been influenced only by a sense of duty. Left to his own inclinations, he should be content to hold the silent tenor of his course, and, without taking upon himself the high responsibility of proposing, be satisfied with giving his vote on measures proposed by others. He therefore would have been much gratified if this measure had been originated in the House of Representatives, and thereby have it relieved from any difficulty arising from the place where it commenced. In this, however, he had been disappointed. Indeed, could he have believed that any gentleman here would have taken the lead, he would have been silent. Deeply impressed, however, with the necessity of the amendment, and believing, if he had not done it, it might possibly go undone, he had encountered the responsibility. Lest his course might be attributed to improper feelings, he must take occasion to declare, that, in profound respect for the talents and patriotism of the other branch of the Legislature, he was inferior to no man; that it was to that purity and capacity we must look for the duration of our free institutions. So long as that body shall sustain the high character it now so justly merits, it may be safely looked to as the guarantee of all our hopes. If, therefore, any thing done by an individual as humble as himself should be esteemed worthy of observation, he hoped his justification would be listened to also, and then he should have nothing to apprehend from the decision. Furthermore, he must be permitted to remark, that generally he should insist that this was the proper body in which amendments to the Constitution should originate. Being the direct representatives of the States, whose ratification only was necessary to give validity to the amendment, indicated a superior fitness in this body taking the lead in proposing amendments. As to the propriety of amending the Constitution at all, these reflections naturally present themselves: That no man would think of tampering with the Constitution for trivial objections; on the contrary, where there is a palpable evil and a practicable remedy, we should but illy fulfil the views of the framers of the Constitution, we should be wanting to ourselves and to our posterity, were we not to apply the remedy. Amid all the praises bestowed on the intelligence and patriotism of the founders of the Constitution, there is nothing presenting a higher claim than that clause which imparted to the Constitution the capacity of amendment in a manner the least calculated to disturb the tranquility of society, and yet so guarded as to present an insuperable barrier

against hasty and improvident alterations; and thus giving to it the faculty of adapting itself to the suggestions of wisdom, guided by experience, acting on the endless vicissitudes of human affairs.

As it regards the propriety of the proposed amendment, that is a question to be decided hereafter, upon the most mature deliberation, and, therefore, need not now be fully discussed. He would, however take the liberty of suggesting a few of the reasons which operated on his mind a conviction that it would be an improvement. He would not, on a question of such importance, avail himself of the consideration of economy. However it may be necessary in other cases, it ought not to weigh much upon the decision of the House as to the best organization of the other branch—its importance swells far above it; but Mr. B. thought he might, with propriety, urge the impediment that multitudes in a deliberative body presented to the despatch of business. Take the Senate and House of Representatives, and compare their relative despatch of business, and the history of the two branches informs us, that it has been at least in an inverse proportion to their numbers. I will not say that business is better done by this body, because it might be esteemed invidious. As to the precise number of which a deliberative body should be composed, to secure the wisest counsels, it is obvious there is no definite rule by which to govern it. We all agree upon the extremes—there may be too few or too many. If the body be so small as to enable the members to coalesce with impunity, no one hesitates to say, that the organization is vicious; on the contrary, if so multitudinous that a portion only can deliver their sentiments, and a few only hear, it is any thing but a deliberative body, in the just sense of the word. It has been remarked by a wise man, "Had every Athenian citizen been a Socrates, still every meeting of the Athenian people had been a mob." The happy medium between these extremes should be the object of inquiry. Happy will be the man to whose superior genius the secret shall be revealed. In the absence of this guide, we must content ourselves with the best lights we possess. If we were to decide on the number best calculated for a deliberative body, without reference to other considerations, the number now composing the Senate would be esteemed sufficient; but we are constrained to mix other considerations, namely, the necessity of such an intimate connexion between the representative and his constituents as will enable the former to become possessed of the feelings and views of the latter, by which he will be enabled successfully to fulfil the object of his appointment. Both considerations being entitled to great weight, the number prescribed must be influenced by both. But it is our peculiar happiness, from the fortunate arrangement of our institutions, that the necessity which dictates a very intimate connexion between the representative and his constituents, does not apply so strongly to the House of Representatives as to ordinary legislatures, to whom belongs the whole range of legislation. All the local subjects connected with municipal legislation are wisely assigned to the States. The subjects to be acted

upon by the House of Representatives are of a national character, and necessarily of a general nature. The election districts, in the former case, may, therefore, be comparatively small: in the latter as extensive as a just regard to a consideration before alluded to will permit. And how infinite will be the advantage resulting from enlarging the sphere of selection! A candidate then will attract consideration only by his distinguished character for talents and patriotism. All the arts of personal solicitation will become unavailing, and the hero of the cross-roads and petty musters will recede from the contest.

There is a recommendation in favor of the smallest number consistent with the great principle of representation, growing out of our peculiar form of Government. As you multiply the number of the House of Representatives, you give to it more the form, and eventually more of the character of a National, in contradistinction to a Federal Government.

The immense influence of five hundred distinguished citizens, or a thousand, if to that point we should ever progress in the House of Representatives, diffused through every part of the Republic, must be readily admitted. To prescribe its limits would be almost impracticable. To those who see, or think they see, a tendency in our Government to consolidation, this argument, it is believed, will not be used in vain. The number should be fixed by the Constitution; it should not be the result of a conflict every ten years. Let your former experience proclaim to you in language stronger and more impressive than any individual can employ, the indispensable necessity of a Constitutional provision. Is it not recollected by all who have been actors or eye-witnesses to the scene, that members will look at home for the rule of their decision? It is but too frequently the case that the abstract question of what is best is lost, in the selfish one of what will be our fraction in the State. Nor is this all. A member who has a little snug district, where he has long walked over the course without a rival till his vanity has whispered him he has a freehold estate, is somewhat unwilling to enlarge it, by which he may introduce a successful rival.

Mr. B. trusted he did not entertain a too unfavorable view of mankind—there was nothing in his nature that led him that way—nor was he disposed to speak harshly of them—but the truth ought not, on a subject like this, to be disguised; and a man ought to speak out, when it is necessary to speak intelligibly. No, sir; in deciding on the great question of the best organization of the House of Representatives the mind should come free and unbiassed to the decision, with an exclusive eye to its influence on the future destinies of our country. Nor are we alone interested in the decision. It is interesting to all mankind. The principle of representation is looked to by the philanthropist as the living spirit of political reformation. The eye of all nations is upon us. Let the hiring scribblers of despotism arraign our vanity for believing that we are charged with the future hopes of mankind. For his part, Mr. B. said, he

would never cease to cherish the proud reflection, and, on all proper occasions to proclaim it, that, by our example, we had emancipated one hemisphere, and materially ameliorated the condition of the other. For, is any man such an infidel as not to believe that the efforts for liberty now making in the other America had their origin in our example, or that the great political drama which has been enacted on the face of Europe for the last thirty years, does not claim the same descent? One among the most distinguished men Europe ever produced, proclaimed, contemporary with the French revolution, that the reform which had been banished from England to America was seen to advance like the shepherd lad in Holy Writ, and overthrow Goliath—it returned riding on the wave of the Atlantic, and its spirit moved on the waters of Europe.

Let the despots combine against human freedom and impiously baptize their alliances holy. If we can hold on in the splendid career we have commenced, the march of freedom, cannot be stayed. Its progress may be temporarily arrested by their accursed machinations, but sustained as it is by the wishes of heaven and of earth, its triumph must be as certain as it will be glorious.

Mr. B. concluded by remarking that he would not now further engage the attention of the Senate, as he would not permit himself to believe that any opposition would be made to the leave which he asked. He would retain for the final discussion some other views which he had intended to have given.

WEDNESDAY, December 19.

NINIAN EDWARDS, from the State of Illinois, arrived on the 17th instant, and attended this day.

The PRESIDENT communicated a memorial from the Legislature of the State of Alabama, relative to the organization of the Federal courts in that State, and urging the expediency of completing the fortifications commenced at Mobile, and discontinued some time ago for the want of the necessary appropriations; and the memorial was read.

Ordered, That so much thereof as relates to courts, be referred to the Committee on the Judiciary, and so much as relates to fortifications, be referred to the Committee on Military Affairs, respectively.

Mr. PLEASANTS presented the memorial of sundry agricultural societies of the State of Virginia, setting forth various reasons for a reduction of the existing duties on imports, and praying that all duties, which amount to partial or total prohibition, be repealed; and the memorial was read, and referred to the Committee on Commerce and Manufactures.

Mr. THOMAS presented the resolution of the Legislature of the State of Illinois, praying to be authorized to construct a canal connecting the waters of Lake Michigan with the Illinois river, and also a donation of a certain quantity of land for that purpose; and the resolution was read, and referred to the Committee on Roads and Canals.

Mr. MORRIL presented the resolutions of the

DECEMBER, 1821.

Proceedings.

SENATE.

Legislature of the State of New Hampshire, in relation to the granting of land to the old States, for the purposes of education; and the resolutions were read, and laid on the table.

Mr. KNIGHT presented the petition of John Spurr, praying to be placed on the pension list.—Referred to the Committee on Pensions.

Mr. WILLIAMS, of Mississippi, presented the memorial of Daniel W. Coxe, of Philadelphia, praying the confirmation of his title to certain land in the State of Louisiana; and the memorial was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the motion of the 18th instant, for information in relation to the system of subsisting the Army of the United States; and the further consideration thereof was postponed until to-morrow.

Agreeably to notice given, Mr. DICKERSON asked and obtained leave to introduce a resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of the President and Vice President of the United States, and the election of Representatives in the Congress of the United States; and the resolution was read, and passed to the second reading.

Mr. JOHNSON, of Louisiana, called up the memorial, presented at the last session, of Paul Lannusse and F. Bailly Blanchard, merchants of the city of New Orleans, praying that a law may pass granting to them the benefit of drawback on certain merchandise exported by them in 1819, which is withheld from them in consequence of their having neglected to take the "export oath" within the prescribed time; and the memorial was read, and referred to the Committee on Finance.

Agreeably to notice given, Mr. BARTON asked and obtained leave to introduce a bill concerning the lands and salt springs to be granted to the State of Missouri for the purposes of education, and for other public uses; and the bill was read, and passed to the second reading.

Mr. KING, of Alabama, presented the petition of Meker and Brown, and others, of Blakeley, Alabama, praying that the said town may be made a port of entry, for reasons stated in the petition; which was read, and referred to the Committee on Commerce and Manufactures.

The resolution proposing an amendment to the Constitution of the United States, so as to limit the number of Representatives in the Congress of the United States, was read the second time; and, on motion by Mr. BARBOUR, the further consideration thereof was postponed to, and made the order of the day for, the third Monday in January next.

THURSDAY, December 20.

Mr. LOWRIE presented the memorial of James Leander Cathcart, praying for relief in the settlement of his accounts at the Treasury, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. HOLMES, of Maine, submitted the following motion for consideration:

17th CON. 1st SESS.—2

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate the names and compensations of the deputies and clerks who are, or have been, employed by any officer of the customs since the year 1816.

Mr. LOWRIE presented the petition of William Russell, of Pennsylvania, praying to be placed on the list of Revolutionary pensioners; and the petition was read, and referred to the Committee on Pensions.

Mr. WALKER gave notice that to-morrow he should ask leave to bring in a bill for the relief of John Coffee.

Mr. WALKER presented the petition of John Holmes, praying to be remunerated for the loss of a horse while in the service of the United States during the Seminole war; which was read, and referred to the Committee of Claims.

Mr. NOBLE submitted the following motion for consideration:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of amending the act, entitled "An act for the relief of the purchasers of public lands prior to the first day of July, eighteen hundred and twenty," so as to enable such of the purchasers who have not taken the benefit of said act to avail themselves of the provisions of the said act until the thirtieth day of September, eighteen hundred and twenty-two.

Mr. BARTON gave notice that to-morrow he should ask leave to introduce a bill for the relief of Richard Matson, of Missouri.

Mr. KING, of New York, submitted the following motion for consideration:

Ordered, That, until otherwise directed, all committees be hereafter appointed by the President of the Senate.

Ordered, That it pass to the second reading.

The resolution proposing an amendment to the Constitution of the United States, as it respects the choice of President and Vice President of the United States, and the election of Representatives in the Congress of the United States, was read the second time.

The bill concerning the lands and salt springs to be granted to the State of Missouri for the purpose of education, and for other public uses, was read the second time, and referred to the Committee on Public Lands.

Mr. HOLMES, of Mississippi, called up the petition presented at the last session of Congress, of Clarissa Scott, widow of the late Colonel William Scott, of the State of Missouri, praying the confirmation of her title to a certain tract of land, as stated in the petition; which was read, and referred to the Committee on Public Lands.

Mr. HOLMES, of Maine, called up the petition presented at the last session of Congress of Josiah Hook, junior, collector of the port of Penobscot, praying to be indemnified for his losses, and for the money he has paid, with the interest thereon, in satisfaction of a judgment obtained against him for an act done by him in his official capacity; and the petition was read, and referred to the Committee on the Judiciary.

Mr. WILLIAMS, of Tennessee, presented a me-

morial of the Legislature of Tennessee, praying that compensation may be made to those who lost horses, &c., in the campaign against the Seminole Indians; which was read and referred.

Mr. THOMAS communicated to the Senate sundry resolutions adopted by the Legislature of the State of Illinois, in regard to the amendments proposed by the State of Pennsylvania to the Constitution of the United States; which resolutions declare the concurrence of Illinois in that amendment which proposes that Congress shall make no law to authorize any bank, or other moneyed institution, except in the District of Columbia, and that every bank so authorized, and its branches, shall be confined to the District of Columbia; also, the concurrence of the State in the amendment which proposes to establish a uniform mode of electing Electors of the President and Vice President of the United States and Representatives in Congress; also, the disagreement of Illinois to that amendment which proposes that no law varying the compensation of the members of Congress shall take effect during the time for which the Congress that shall pass such a law shall have been elected.

The Senate took up the resolution offered on Tuesday by Mr. WILLIAMS, of Tennessee, calling on the Secretary of War for certain information relative to the subsistence of the Army.

On motion, the following clause was added to the resolution:

"Stating the rank of the officers, their number, and the number of the soldiers, in actual service, for each year; together with the amount of their pay and subsistence from the commencement of the military establishment."

Thus amended, the resolution was agreed to.

THE FOURTH CENSUS.

The PRESIDENT communicated to the Senate the following letter from the Secretary of State, accompanied by sundry papers connected with the subject thereof; which were read and referred to the Committee on the Judiciary:

DEPARTMENT OF STATE, Dec. 18, 1821.

SIR: By the 12th section of the act of Congress of 14th March, 1820, "to provide for taking the fourth census or enumeration of the inhabitants of the United States, and for other purposes," it was prescribed that, "when the aforesaid enumeration should be completed, and returned to the office of the Secretary of State, by the marshals of the States and Territories, he should direct the printers to Congress to print, for the use of the Congress, fifteen hundred copies thereof."

By the third section of the same act, the marshals, respectively, were required, under a certain penalty, on or before the first day of April of the present year, to transmit to the Secretary of State the aggregate amount of each description of persons within their respective Districts or Territories.

By an act passed on the third of March last, the time prescribed for the marshals and their assistants to perform the various duties assigned to them by the act of 14th March, 1820, was enlarged to the first day of September of the present year.

The eighth section of the original act for taking the census authorized and required the Secretary of State

to transmit, to the several marshals of the several Districts and Territories, regulations and instructions pursuant to the act for carrying the same into effect, and, also, of the forms contained therein of the schedule to be returned, and such other forms as might be necessary, in carrying the act into execution, and proper interrogatories to be administered by the several persons to be employed in taking the enumeration.

And in the tenth section of the act it was made the duty of the several marshals and their assistants, at the time for taking the census, to take, under the direction of the Secretary of State, and according to such instructions as he should give, and such forms as he should prescribe, an account of the several manufacturing establishments, and their manufactures, within their several Districts, Territories, and Divisions; the assistants were required to make return of the same to their respective marshals, and the marshals to transmit the returns and abstracts thereof to the Secretary of State, at the same time with the returns of the enumeration.

I have the honor of communicating, herewith, printed copies of the instructions, regulations, forms, and interrogatories, transmitted to the marshals, in execution of the eighth and tenth sections of the act.

The returns of the enumeration have not, even to this day, been completely made to the office of this Department. Several of those which have been made, have been received since the first of September, the day last limited by law for their reception. The district of Kershaw, in South Carolina, is the only one from which any further return is to be expected, and, by the letter of the marshal of that district, it is hoped that it will be received by the commencement of the ensuing year.

Fifteen hundred copies of all the returns received, including those which have come in since the first of September, have been printed by the printers of Congress, conformably to the intentions of the act, and are now at their disposal.

No provision is made in the act for taking the census with regard to the returns of the manufacturing establishments and their manufactures. They are at the office of the Department, subject to such order as Congress may think proper to take concerning them.

The returns which have been received since the first of September have been from the marshals of the eastern district of Virginia, of Georgia, of Alabama, and of Mississippi. The last return from Alabama was received since the meeting of Congress, not directly from the marshal, but from the Executive Department of the State. A copy of the letter received with it, and also of that received from the marshal, with the general return, is herewith transmitted. As there is, by the original census act, a penalty annexed to the failure by the marshals of transmitting the returns within the time prescribed, it is proper to be remarked that this failure does not in any instance appear to have resulted from remissness on the part of the officer in the performance of his duty. The reasons assigned by them all for the delay attending these returns have been the same—namely, that the compensation allowed by the law was esteemed so inadequate for the services required that it has been found impossible to obtain competent assistants to undertake them. With regard to the eastern district of Virginia, and the district of Alabama, it is further to be observed that some incidental obstacles and delays to the completion of the returns resulted from the decease of their respective marshals,

DECEMBER, 1821.

Amendment to the Constitution.

SENATE.

and the lapse of time before the possible appointment of their successors, while the taking of the enumeration was in progress. Justice to these officers, who have all manifested a due earnestness in the execution of all their abilities to complete their returns in season, will, it is hoped, justify the suggestion of a provision by Congress to shield them from the possible effect of a penalty for deficiencies which appear to have arisen from causes beyond their control,

I have the honor to be, with great respect, sir, your very humble and obedient servant,

JOHN QUINCY ADAMS.

THE PRESIDENT OF THE SENATE.

FRIDAY, December 21.

Mr. HOLMES, of Mississippi, called up the petition of John M. Whitney, and John Snodgrass, in behalf of the legal representatives of Alexander Montgomery, deceased, praying that a law may be passed directing a warrant to be issued to them for a quantity of land in the State of Mississippi, as an indemnity for a like quantity of their land improperly disposed of by the register and receiver of the land office west of Pearl river; and the petition was read, and referred to the Committee on the Public Lands.

Agreeably to notice given, Mr. JOHNSON, of Louisiana, asked and obtained leave to introduce a bill, supplementary to the several acts for adjusting the claims to land, and establishing land offices, in the districts east of the island of New Orleans; and the bill was read, and passed to the second reading.

Agreeably to notice given, Mr. WALKER asked and obtained leave to introduce a bill for the relief of John Coffee; and the bill was read, and passed to a second reading.

Agreeably to notice given, Mr. BARTON asked and obtained leave to introduce a bill for the relief of Richard Matson, of Missouri; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 20th instant, for information relative to the deputies and clerks employed by officers of the customs, since the year 1816, and agreed thereto.

The Senate resumed the consideration of the motion of the 20th instant, for instructing the Committee on Public Lands to inquire into the expediency of amending the act for the relief of the purchasers of public lands, so as to extend its provisions, and agreed thereto.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act reviving and extending the time allowed for the redemption of lands sold for direct taxes, in certain cases;" a bill, entitled "An act to revive and continue in force, an act, entitled 'An act to provide for persons who were disabled by known wounds received in the Revolutionary war;' and, a bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same;" and, also, a resolution providing for the distribution of the secret journal

and foreign correspondence of the Old Congress; and of the journal of the Convention which formed the Constitution of the United States; in which bills and resolution they request the concurrence of the Senate.

The said bills and resolution were read, and severally passed to the second reading.

The motion for a new rule as it respects the appointment of the committees of the Senate was read the second time.

AMENDMENT TO THE CONSTITUTION.

The resolve of Mr. DICKERSON, proposing an amendment to the Constitution of the United States, to declare that Electors and Representatives to Congress shall be chosen in the several States uniformly by districts, was then taken up for consideration as in Committee of the Whole.

Mr. DICKERSON said, that the subject of this proposition had been so often discussed in this and the other House, and was so well understood throughout the country, that he presumed the mind of every member of the Senate was made up on the subject. He should, therefore, refrain, himself, from offering any observations in support of it.

Mr. PLEASANTS concurred in the opinion that this matter had been sufficiently discussed; but proposed, as the day was very bad, and the Senate therefore thin, that the question on this proposition should be deferred to another day. He proposed to postpone it to the second Tuesday in January.

After some observations from Mr. DICKERSON and Mr. CHANDLER, on the propriety of an early decision on this proposition, the postponement was agreed to.

The Senate adjourned, to Monday.

MONDAY, December 24.

Mr. RUGGLES, from the Committee of Claims, to whom the subject was referred, reported a bill explanatory of the act for the relief of James Leander Cathcart, passed May 15th, in the year of our Lord 1820; and the bill was read, and passed to the second reading.

On motion, by Mr. PLEASANTS, the report of the Secretary of the Navy, made in obedience to a resolution of the Senate of the 1st of May, 1820, requesting the Secretary of the Navy to cause to be revised the rules, regulations, and instructions, for the naval service, was referred to the Committee on Naval Affairs, to consider and report thereon.

Mr. FINDLAY presented the memorial of Robert Ralston and others, citizens of Philadelphia, interested in commerce, the manufacture of hemp, and the exportation of cordage and twine, praying a drawback on cordage and twine exported; and the memorial was read, and referred to the Committee on Commerce and Manufactures.

Mr. JOHNSON, of Louisiana, called up the memorial of Thomas Shields, purser in the navy, praying compensation for certain naval stores and other property, destroyed in December, 1814,

SENATE.

Proceedings.

DECEMBER, 1821.

by the explosion of a battery at the bay of St. Louis, which was ordered to be blown up by Lieutenant T. A. C. Jones, of the navy; and the memorial was read, and referred to the Committee on Naval Affairs.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Samuel Clarkson and Alexander Elmslie;" and, also, a resolution providing for the distribution of the marshals' returns of the fourth census, in which bill and resolution they request the concurrence of the Senate.

The said bill and resolution were read, and severally passed to the second reading.

Mr. KNIGHT presented the resolutions of the Legislature of the State of Rhode Island and Providence Plantations, approving of the resolutions of the State of Maryland, upon the subject of an appropriation of the lands of the United States to the purposes of education; and requesting their Senators and Representatives in Congress to use their best exertions to obtain the passage of a law for these beneficial purposes; and the resolutions were read, and laid on the table.

The bill supplementary to the several acts for adjusting the claims to land and establishing land offices in the districts east of the island of New Orleans was read the second time, and referred to the Committee on Public Lands.

The bill for the relief of John Coffee was read the second time, and referred to the Committee on Public Lands.

The bill for the relief of Richard Matson was read the second time, and referred to the same committee.

The bill entitled "An act reviving and extending the time allowed for the redemption of land sold for direct taxes in certain cases," was read the second time, and referred to the Committee on the Judiciary.

The bill, entitled "An act to revive and continue in force an act, entitled "An act to provide for persons who were disabled by known wounds received in the Revolutionary war," was read the second time, and referred to the Committee on Pensions.

The bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same," was read the second time, and referred to the Committee on Public Lands.

The resolution providing for the distribution of the Secret Journal and Foreign Correspondence of the Old Congress, and of the Journal of the Convention which formed the Constitution of the United States, was read the second time.

The Senate resumed the consideration of the motion for a new rule as it respects the appointment of the committees of the Senate; and, on motion, by Mr. EATON, the further consideration thereof was postponed until Friday next.

Mr. KING, of New York, presented the memorial of Ebenezer Stevens, and others, praying that Congress would afford them relief on account of a demand against the United States, arising out

of certain contracts entered into with Robert Morris, Esq., for the supply of provisions to the Army of the United States during the Revolutionary war; and the memorial was read, and referred to the Committee of Claims.

Mr. MORRIS presented the petition of Stephen Shattuck, of the State of New Hampshire, praying to be placed on the roll of pensioners; and the petition was read, and referred to the Committee on Pensions.

Mr. BARBOUR presented the memorial of the Mayor, Aldermen, and Common Council of the city of Washington, praying authority to remove the course of the canal, and to convert a part of the mall into building lots; and the memorial was read, and referred to the Committee on the District of Columbia.

Mr. JOHNSON, of Louisiana, presented the petition of William Nott, and others, syndics of the creditors of George T. Phillips, late of New York, merchant, praying that certain bonds may be cancelled, their conditions having been complied with; and the petition was read, and referred to the Committee on Commerce and Manufactures.

The Senate adjourned to Thursday.

THURSDAY, December 27.

Mr. FINDLAY presented the memorial of the President and Directors of the Bank of the United States, praying certain legislative enactments for the relief of the institution; the memorial was read, and referred to the Committee on Finance.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of Daniel Merrill, made a report accompanied by a resolution that the prayer of the petitioner ought not to be granted.

Mr. PARROTT presented the petition of Reuben Shapley, representing that he is the owner of the schooner John and cargo, captured by His Britannic Majesty's ship of war Talbot, in 1815, within the time limited by the Treaty of Peace for the restoration of captured vessels. That the said vessel and cargo were both lost on the island of Cuba, through the misconduct or negligence of the captors; that he has been unable to obtain indemnity from the British Government, and praying such relief as to the wisdom and equity of Congress may seem meet; and the petition was read, and referred to the Committee on Foreign Relations.

Mr. PLEASANTS called up the petition presented at the last session of Congress, of Joseph Janney, praying compensation for buildings and other property destroyed by the enemy during the late war with Great Britain, in consequence of the occupancy thereof by militia; and the petition was read, and referred to the Committee of Claims.

Mr. JOHNSON, of Louisiana, presented the petition of the President and Directors of the Planters' Bank of New Orleans, praying the reimbursement of certain moneys advanced the paymaster of the troops of the United States sta-

DECEMBER, 1821.

Post Office Currency.

SENATE.

tioned at that place in the year 1815; and the petition was read, and referred to the Committee of Claims.

Mr. JOHNSON, of Kentucky, presented the memorial of the Transylvania University, in the State of Kentucky, praying the repeal of the duty on books imported into the United States; and the memorial was read, and referred to the Committee on Finance.

Mr. D'WOLF presented the memorial of John R. Wheaton, and others, merchants and rope-makers, of Bristol, Rhode Island, praying a drawback on cordage exported; and the memorial was read, and referred to the Committee of Commerce and Manufactures.

Mr. MORRIS presented the petition of Thomas Mullet, praying to be placed on the list of Revolutionary pensions; and the petition was read, and referred to the Committee on Pensions.

Mr. KNIGHT submitted the following motion for consideration:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the rate and amount received per annum for commission or compensation of the several navy agents; and, also, of the mode practised by them in furnishing the Navy of the United States with supplies, and that they report by bill or otherwise.

Mr. JOHNSON gave notice that, to-morrow, he should ask leave to introduce a bill granting to the Governor of the State of Louisiana, for the time being, and his successors in office, two tracts of land in the county of Point Coupee.

Mr. BARTON submitted the following motion for consideration:

Resolved, That the Committee on Public Lands be instructed to inquire whether any, and, if any, what amendments explanatory of the several acts of Congress granting rights of pre-emption to settlers on public lands be necessary to effect the objects of those acts.

On motion, by Mr. DICKERSON,

Resolved, That so much of the Message of the President of the United States as respects our relations with foreign nations, be referred to the Committee on Foreign Relations.

That so much thereof as relates to the debts and revenues of the United States, be referred to the Committee of Finance.

That so much thereof as relates to Domestic Manufactures, be referred to the Committee on Commerce and Manufactures.

That so much thereof as relates to the construction of permanent fortifications, be referred to the Committee on Military Affairs.

That so much thereof as relates to the naval service and the construction of vessels of war, be referred to the Committee on Naval Affairs.

That so much thereof as relates to the future establishment of a government over the territory composed of East and West Florida, be referred to the Committee on the Judiciary.

The bill explanatory of the act for the relief of James Leander Cathcart, passed May fifteenth, in the year of our Lord one thousand eight hundred and twenty, was read the second time.

The bill, entitled "An act for the relief of Samuel Clarkson and Alexander Elmslie," was read the second time, and referred to the Committee on Finance.

The resolution providing for the distribution of the Marshals' returns of the Fourth Census was read the second time, and referred to the Committee on the Judiciary.

The Senate resumed, as in Committee of the Whole, the resolution providing for the distribution of the Secret Journal and Foreign Correspondence of the Old Congress, and of the Journal of the Convention which formed the Constitution of the United States; and, no amendment having been made thereto, it was reported to the House, and passed to a third reading.

Mr. KING, of New York, presented the petition of Jacob Barker of New York, praying the interposition of Congress in the settlement of his accounts under his contracts of the 2d May, 1814, with the Secretary of the Treasury, for a portion of the ten million loan, being part of the twenty-five millions authorized by the act of the 24th of March, 1814; the petition was read, and referred to the Committee of Claims.

POST OFFICE CURRENCY.

Mr. JOHNSON, of Kentucky, said, he was about to offer a resolution to the Senate, which he was aware would present intrinsic difficulties; but, in obedience to the general wishes of the people of the State which he in part represented, and from the convictions of his own mind, as to the utility of the measure, if practicable, he had considered it his duty to propose it for the consideration of the Senate. Since the war with Great Britain, he said, the pecuniary distress of the West had been gradually increasing, until within a very late period; he hoped that the tide of misfortune in the State of Kentucky, was now subsiding, in consequence of measures of relief which had been adopted by the Legislature of that State. Two circumstances, more than all others, had augmented that distress of which he had spoken. The premature resumption of specie payment on the part of the banks, and the policy of the General Government, which denied to the West a just proportion of the public expenditure, which he considered a great grievance, and which he had no doubt, would be remedied by Congress, whenever a proper occasion presented itself. Mr. J. said, at this time the people of Kentucky were deprived of many benefits resulting from the Post Office Establishment, arising from the causes to which he had adverted; and he was convinced that his proposition would bring more revenue to that Department, many letters being returned to the General Post Office as dead letters, for the want of some such accommodation. He also stated the further fact, that it was well known, that the money arising from the Post Office Establishment, in the West, was paid to the Western contractors for carrying the mail; and did not go into the Treasury of the United States as revenue. If the measure could be adopted without injury to the public, and could extend relief to a suffering

portion of the community, he presumed no indisposition would be manifested against his proposition. If, on the other hand, it were impracticable and inconsistent with the public good, it would be abandoned. He said that he very well knew that the depreciation of the paper of the Bank of the Commonwealth of Kentucky, compared with specie, or what was denominated Eastern funds, for the payment of debts in Philadelphia and elsewhere, induced many gentlemen, at a distance, to believe that the currency of that State was of little value. But he would take this occasion to state the fact that, within the State, the paper would, at this time, purchase as much real or personal property, as could have been purchased by the same amount of gold and silver coin, when the banks were in prosperity, and paying specie for their notes. He had no doubt that such would continue to be the result; for, while relief had been given to the people by such a measure, the greatest care had been taken to fix the institution upon a solid foundation. Mr. J. then submitted the following resolution:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of authorizing the Postmaster General to permit the Postmasters, in the Western country, to receive, for postages on letters, the currency of the State in which the said offices are located."

The resolution lies on the table.

FRIDAY, December 28.

The VICE PRESIDENT of the United States attended.

Mr. RUGGLES presented the memorial of John Scudder, and other citizens of Cincinnati, in the State of Ohio, urging the expediency of establishing an uniform system of bankruptcy throughout the United States; which was read, and referred to the Committee on the Judiciary.

Mr. HOLMES, of Mississippi, presented the petition of William Doak, praying to be allowed the right of pre-emption to a tract of land; which was read, and referred to the Committee on the Public Lands.

Mr. MILLS presented the petition of Simeon Fish, of Hampshire county, in Massachusetts, praying to be confirmed in his title to a tract of land; which was read, and referred to the Committee on the Judiciary.

Mr. HOLMES, of Mississippi, presented the petition of Noble Osburn, praying a donation of one section of land in the tract lately ceded by the Choctaw Indians; which was read, and referred to the Committee on Public Lands.

Mr. BARTON presented certain documents, showing the construction of the pre-emption laws in the several land districts; which were read, and referred to the Committee on Public Lands.

Mr. THOMAS, from the Committee on the Public Lands, to whom was referred the petition of Clarisa Scott, reported a bill for the relief of the legal representatives of Manuel and Isaac Monsanto, deceased; and the bill was read, and passed to a second reading.

Agreeably to notice given, Mr. JOHNSON, of Louisiana, asked and obtained leave to bring in a bill granting to the Governor of the State of Louisiana, for the time being, and his successors in office, two tracts of land in the county of Point Coupee; and the bill was read, and passed to a second reading.

The Senate proceeded to consider the motion of yesterday, instructing the Committee on Naval Affairs to inquire and report relative to the fees and emoluments of navy agents; and agreed thereto.

The Senate proceeded to consider the motion of yesterday, instructing the Committee on Public Lands to inquire whether any amendments are necessary to the several acts of Congress granting rights of pre-emption to settlers on public lands; and agreed thereto.

The Senate proceeded to consider the motion of yesterday, instructing the Committee on the Post Office and Post Roads to inquire into the expediency of authorizing the postmasters in the Western country to take for postage on letters the currency of the State in which the post office may be located; and, on motion, by Mr. LOWRIE, it was laid on the table.

The Senate resumed the consideration of the motion of the 20th instant, authorizing the President of the Senate to appoint all committees, as amended; and, on motion, by Mr. KING, of New York, it was laid on the table.

The Senate proceeded to consider the report of the Committee of Claims, on the petition of David Merrill; and, in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

The Senate proceeded to consider, as in Committee of the Whole, the bill explanatory of the act for the relief of James Leander Cathcart, passed May fifteenth, in the year of our Lord, 1820, and, no amendment having been proposed, the President reported it to the House; and it was ordered to be engrossed and read a third time.

The resolution from the House of Representatives, providing for the distribution of the Secret Journal and Foreign Correspondence of the old Congress, and of the Journal of the Convention which formed the Constitution of the United States, was read the third time, and passed.

ADMIRALTY JURISDICTION.

Mr. JOHNSON, of Kentucky, said he deeply regretted that duty compelled him to trouble the Senate with a resolution in regard to the exercise of admiralty jurisdiction by the Federal courts.

He said that within a short period the district court of the United States for the district of Kentucky, in conformity to what was supposed to be the opinion of some one of the judges of the Supreme Court, had assumed admiralty jurisdiction in cases arising out of the navigation of the Western waters. So far as he was acquainted with the facts, the jurisdiction had only embraced steamboat navigation, but in principle he did not see how the court could refuse to exercise equal jurisdiction over cases arising out of keelboat navi-

DECEMBER, 1821.

Admiralty Jurisdiction.

SENATE.

gation and other small craft upon the same waters. The power of steam had already enabled our enterprising citizens to navigate not only the Mississippi, the Missouri, and the Ohio, but the Alleghany, the Monongahela, the Cumberland, the Tennessee, and the Kentucky river, which run through the heart of that State. This territorial view of the subject would at once give to the Senate some distinct idea of the immense jurisdiction which will be given to the Federal Judiciary over cases which heretofore had been confided exclusively to the State tribunals. The very term "maritime jurisdiction" carries with it the idea of transactions upon the high seas; but these vessels, destined for the navigation of the Western waters, were never intended to reach the ocean. Mr. J. said that it was a new era in the history of our country; for Kentucky was about to learn, from the exercise of admiralty jurisdiction, that she was a maritime State; for he had been informed that Kentucky alone, in the West, had as yet been taught this lesson. Those who navigate our Western waters are considered as mariners and seamen, and all parties concerned in the navigation of these waters subject to maritime law, to the exclusion of the common and statute law of that State. Who could suppose that this admiralty jurisdiction could have grown out of the laws of Congress regulating the merchant service of the United States with foreign nations? The most distinguished lawyers of our State must now become students, and purchase new libraries; for it was believed that very few of the advocates at the bar in that State were acquainted with this complicated system. They never expected that by any the least plausible construction of the Federal Constitution, and the regulations applicable to the merchant service, would ever enable the Federal Judiciary to take cognizance of these cases. Already we hear loud complaints respecting the extensive powers of the Federal courts; and, if this additional jurisdiction was confirmed to them, he had no doubt that in a little time these cases would constitute one half of the business of the courts of Kentucky, unless navigation was entirely annihilated; and thus the court would at one step double its jurisdiction.

The exercise of the admiralty jurisdiction is a most intolerable grievance to the country, to say nothing of its encroachments upon State sovereignty. It swells the docket of the Federal court to an enormous bulk, and subjects the party to ruinous sacrifices of time and expense. If a debt, for instance, is created with a merchant, in the purchase of goods or necessities to supply a steamboat, and he obtains a bond for his debt, or if it remain an open account, he may maintain his action for the recovery, in the District Court of the United States, without trial by jury, and without a declaration, pleas, or pleadings in the usual forms. A loose statement, in the form of a libel, will justify a judgment—and when execution is ordered, the amount must be made in gold and silver coin, within the short period of thirty days, in disregard of State laws, which regulate all other cases, both in the Federal and State courts.

For instance, when a farmer obtains his judgment against this very merchant, for the sale of his produce, the force of his execution may be arrested for three months, by the right of replevin; in ordinary cases, where the party is willing to take the currency of the country, in the discharge of his debt; but in the extraordinary cases, where specie alone is demanded, then a much longer time is granted to the defendant to make the money.

Here it will be seen that in one case the creditor may pursue his debtor with the greatest rigor, at the hazard of himself and every other creditor who is bound by the ordinary proceedings of the courts; and this exclusive privilege on the part of one creditor arises solely from the consideration that his debt was contracted in building, navigating, or furnishing a steamboat. Who so blind that cannot see the injustice and solemn consequences that must ultimately result from this state of things—the people must be governed by two systems of laws, one maritime, and the other, the statute laws of the State—one demanding the pound of flesh; the other extending those charities of the law which had been matured into a system by the wisdom of Virginia previous to the separation of Kentucky, and which has made a part of the system of Kentucky from the first moment of her existence as an independent community. Such a system has the most powerful tendency to lessen confidence in the Federal judiciary, and to generate in the minds of the people the most inveterate hatred towards that essential arm of the General Government, when confined to its legitimate and Constitutional sphere. Mr. J. expected soon to see a maritime jurisdiction extending to the Rocky Mountains, if it were not confined to the ocean and maritime frontier. The people never can, and never will, submit to this extraordinary assumption of admiralty jurisdiction in the interior of the country, from one to two thousand miles from the ocean. It must be limited and defined; it makes the most serious encroachment upon the Constitutional jurisdiction of the State tribunals, and the most dangerous inroads upon State sovereignty. Mr. J. said steamboat navigation had produced a new epoch in the interior navigation of our country; that the nation had looked with pride and astonishment upon the wonderful effects of that great genius who resided at New York. We, too, in the West, had hailed the day as a happy one, when the same useful invention was put into operation on the Western waters. But instead of realizing these anticipated blessings so far, a combination of circumstances had made it something like Pandora's box, and the exercise of this admiralty jurisdiction had done much to ruin those who were engaged in this mode of navigation, by making the boat-hands unfaithful, and in arresting the progress of the most valuable, for whole seasons, for a few hundred dollars; and, in other cases, by sacrificing boats worth twenty, thirty, and forty thousand dollars for a few thousand, by proceeding in the form of libels in the Court of Admiralty; when the body, as well as the other property of the debtor, was subject to this debt by ordinary remedies provided by law.

SENATE.

Proceedings.

JANUARY, 1822.

Mr. J. said he did not object to this admiralty jurisdiction for the want of confidence in the court—for he was well acquainted with the judges in Kentucky, and he had confidence in their integrity and in their capacity; and, while acting in the State tribunals previous to their appointments in the Federal judiciary, they gave great satisfaction. He was opposed to this jurisdiction on account of the alarming consequences which must grow out of it, and he did not believe it was ever intended to apply to such cases.

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of modifying the laws of Congress regulating the merchant service so as to define more particularly the admiralty jurisdiction of the district courts of the United States.

The Senate adjourned to Monday next.

MONDAY, December 31.

Mr. ELLIOTT presented the petition of the inhabitants of the county of Burke, in the State of Georgia, praying that the route of the mail from Savannah to Augusta, as at present established by law, may not be altered; which was read, and referred to the Committee on the Post Office and Post Roads.

Mr. JOHNSON, of Louisiana, presented the petition of the mayor, aldermen, and inhabitants, of the city of New Orleans, praying that a portion of the plot of the naval arsenal may be granted to the said city, for the establishment of a market thereon; and the petition was read, and referred to the Committee on Public Lands.

Mr. JOHNSON, of Louisiana, presented the petition of the mayor, aldermen, and inhabitants, of the city of New Orleans, praying that a certain portion of the ground on which Fort St. Charles was situated may be granted for the purpose of extending and improving certain streets in said city; which was read, and referred to the Committee on Public Lands.

Mr. JOHNSON, of Louisiana, submitted the following motions for consideration:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Pinckneyville, Mississippi, by the Avoyelles, to Alexandria, in the State of Louisiana.

Resolved, That the same committee be instructed to inquire into the expediency of establishing a mail route from Baton Rouge, by the Bayou Plaquemine, and by Duplessis's Landing, in the Attakapas, to Opelousas courthouse, Louisiana.

Mr. EATON submitted the following motion for consideration:

Resolved, That the Committee on the Public Lands examine into the propriety of reporting a bill for ascertaining and adjusting titles and claims to land in the Territories of East and West Florida.

Mr. NOBLE submitted the following motion for consideration:

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of establishing a land office at Fort Wayne, in the State of Indiana.

Mr. HOLMES, of Maine, from the Committee on Finance, to whom the subject was referred, reported a bill further to establish the compensation of officers of the customs, and to alter certain collection districts, and for other purposes; which was twice read by unanimous consent.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of John Holmes, reported a bill for the relief of John Holmes; which was read, and passed to a second reading.

The Senate proceeded to consider the motion of the 28th instant, instructing the Committee on the Judiciary to inquire into the expediency of modifying the laws regulating the merchant service; and agreed thereto.

The bill granting to the Governor of the State of Louisiana for the time being, and his successors in office, two tracts of land in the county of Point Coupee, was read the second time, and referred to the Committee on Public Lands.

The bill for the relief of the legal representatives of Manuel and Isaac Monsanto, deceased, was read a second time.

The bill explanatory of the act for the relief of James Leander Cathcart, passed May fifteenth, in the year of our Lord, 1820, was read the third time, and passed.

Mr. KING, of Alabama, gave notice that, on Wednesday next, he would ask leave to introduce a bill to establish a port of entry at the town of Blakeley, in the State of Alabama.

Mr. LANMAN presented a copy of the report of a joint committee to the General Assembly of Connecticut, and of a resolution passed thereon, on the subject of appropriating to the old States a portion of the public lands for the purposes of education; which was read.

The Senate adjourned to Wednesday.

WEDNESDAY, January 2, 1822.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of Joseph Janney, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted.

Mr. EATON presented the petition of the executors of the last will and testament of Thomas Carr, of Georgia, deceased, praying compensation for certain land. The petition was read, and referred to the Committee on Public Lands.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the memorial of Thomas Shields, made a report, accompanied by a bill authorizing the payment of a sum of money to Thomas Shields; and the report and bill were read, and the bill passed to the second reading.

Mr. CHANDLER presented the petition of Abiel Wood and others, inhabitants of Wiscasset, in the State of Maine, praying a uniform system of bankruptcy. The petition was read, and referred to the Committee on the Judiciary.

Agreeably to notice given, Mr. KING, of Alabama, asked and obtained leave to introduce a bill to establish the district of Blakeley; and the bill was read, and passed to the second reading.

JANUARY, 1822.

Distressed Seamen—Rules and Orders.

SENATE.

The Senate resumed the consideration of the motion of the 31st ultimo, for instructing the Committee on the Post Office and Post Roads, to inquire into the expediency of establishing certain mail routes in the State of Louisiana; and agreed thereto.

The Senate resumed the consideration of the motion of the 31st ultimo, for instructing the Committee on Public Lands to examine into the propriety of reporting a bill for ascertaining and adjusting titles and claims to land in the territory of East and West Florida; and agreed thereto.

The Senate resumed the consideration of the motion of the 31st ultimo, for instructing the Committee on Public Lands to inquire into the expediency of establishing a land office at Fort Wayne, in the State of Indiana; and agreed thereto.

The bill for the relief of the representatives of Manuel and Isaac Monsanto, deceased, was taken up, and, after some explanation by Mr. THOMAS, of the nature of the claim of the petitioners, the bill was ordered to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to establish the compensation of officers of the customs, and to alter certain collection districts, and for other purposes; and the further consideration thereof was postponed until to-morrow.

DISTRESSED SEAMEN.

Mr. KING, of New York, submitted the following resolution for consideration:

Resolved, That the President of the United States be requested to cause to be laid before the Senate copies of the rules and instructions which have been given to the Ministers, Consuls, or other agents of the United States, in foreign countries, concerning allowances, in money or otherwise, made by them respectively, to sick or distressed American seamen. That he be likewise requested to cause to be laid before the Senate accounts of the money so advanced to sick or disabled American seamen in the years 1818, 1819, and 1820; distinguishing the nations in which, and the Minister, Consul, or agent, by whom such advances were made, and the number of seamen so annually relieved in the nations respectively.

Mr. KING observed that he should offer nothing in addition to the explanation which the motion itself contained, except that the expenditure for the relief of distressed American seamen in foreign countries was an unguaranteed disbursement of public money; and, like all other unchecked expenditures, it would greatly increase, unless subjected to some regular accountability and control.

The resolution was laid on the table for one day of course.

RULES AND ORDERS.

Mr. KING, of New York, also laid on the table the following resolution:

Resolved, That a committee be appointed on the part of the Senate, jointly with one to be appointed on the part of the House of Representatives, to revise the rules and orders by which the business between the two Houses shall be regulated, and to make report thereof to their two Houses respectively.

Mr. KING said he offered this motion on the

presumption that the House of Representatives would meet it by the appointment of a committee on its part. He adverted to the inconvenience, and, indeed, the evils which attended the present loose mode of transacting the public business between the two Houses, according to which it often occurred that bills of importance, even appropriation bills, arrived from the other House, for the concurrence of the Senate, on the day before the last, and sometimes on the very last day of the session; of course, if they passed at all, they must be hurried through without the possibility of bestowing on them that degree of investigation and consideration which were necessary and proper. The impropriety of this course was apparent, Mr. K. presumed, and it was with a view to its correction, that he submitted the present motion. His idea was, that no bill ought to be sent from either House to the other for concurrence on either of the two last days of the session.

THURSDAY, January 3.

The PRESIDENT communicated a report of the Secretary of State, made in obedience to the act of the 25th April, 1818, entitled "An act to regulate and fix the compensation of clerks in the different offices," exhibiting the names of the clerks employed in the several offices attached to the Department of State, and the sums paid to each; and the report was read.

Mr. HOLMES, of Maine, from the Committee of Finance, to whom was referred the memorial of Paul Lanusse and F. Bailly Blanchard, merchants of New Orleans, praying for certificates of debenture on certain goods exported from the port of New Orleans in 1819, made a report accompanied by a resolution, that the petition of Paul Lanusse and F. Bailly Blanchard ought not to be granted.

Mr. HOLMES, from the same committee, to whom was referred the bill entitled "An act for the relief of Samuel Clarkson and Alexander Elmslie," reported the same without amendment.

Mr. JOHNSON, of Kentucky, from the Committee on Roads and Canals, reported a bill to keep in repair the Cumberland road; and the bill was read, and passed to the second reading.

Mr. JOHNSON, of Louisiana, submitted the following motion for consideration:

Resolved, That the Committee on Public Lands be instructed to inquire whether any legislative provision is necessary to authorize the payment to the State of Mississippi of three per cent of the net proceeds arising from the sale of the United States lands within said State, subsequent to the 1st December, 1817.

Mr. VAN DYKE presented the memorial of the President and Directors of the Chesapeake and Delaware Canal Company, praying the aid of the Government; the memorial was read, and referred to the Committee on Roads and Canals.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Joseph Janney; and, on motion, by Mr. PLEASANTS, it was laid on the table.

The Senate resumed the consideration of the

motion of the 2d instant, requesting the President of the United States to cause to be laid before the Senate certain information respecting sick or distressed American seamen; and agreed thereto.

The Senate resumed the consideration of the motion of the 2d instant, for the appointment of a joint committee to revise the rules and orders by which the business between the two Houses shall be regulated; and agreed thereto.

The bill authorizing the payment of a sum of money to Thomas Shields was read a second time.

The bill to establish the district of Blakeley was read a second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John Holmes; and no amendment having been made thereto, it was reported to the House, and ordered to be engrossed and read a third time.

The bill for the relief of the legal representatives of Manuel and Isaac Monsanto, deceased, was read a third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Isaac Finch;" and, also, a bill, entitled "An act for the relief of Peggy Mellen;" in which bills they request the concurrence of the Senate.

The said two bills were twice read by unanimous consent; and, on motion, the bill, entitled "An act for the relief of Isaac Finch," was referred to the Committee of Claims; and the bill entitled "An act for the relief of Peggy Mellen," was referred to the Committee on Public Lands.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to establish the compensation of officers of the customs, and to alter certain collection districts, and for other purposes; and the same having been amended, the further consideration thereof was postponed until Thursday next.

FRIDAY, January 4.

The PRESIDENT communicated a letter from the Secretary of the Treasury, transmitting a report of the Director of the Mint; and the letter and report were read.

Mr. THOMAS, from the Committee on Public Lands, to whom was referred the bill granting to the Governor of the State of Louisiana for the time being, and his successors in office, two tracts of land in the county of Point Coupee, reported the same without amendment.

The bill for the relief of John Holmes was read a third time, and passed.

Mr. THOMAS, from the Committee on Public Lands, to whom was referred the bill for the relief of John Coffee; reported the same without amendment.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the memorial of Paul Lanusse and F. Bailly Blanchard, merchants of New Orleans, praying for certificates of debenture on certain goods exported from the port of New Orleans in

1819; and the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the motion of the 3d instant, for instructing the Committee on Public Lands to inquire whether any legislative provision is necessary to authorize the payment to the State of Mississippi of three per cent. of the net proceeds arising from the sale of the United States lands within the said State, subsequent to the 1st December, 1817, and agreed thereto.

The bill to keep in repair the Cumberland road was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill authorizing the payment of a sum of money to Thomas Shields; and no amendment having been made thereto, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to establish the district of Blakeley; and no amendment having been made thereto, it was reported to the House, and, on motion by Mr. CHANDLER, referred to the Committee on Finance.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Samuel Clarkson and Alexander Elmslie;" and no amendment having been made thereto, it was reported to the House, and passed to a third reading.

The Senate proceeded to the appointment of a committee on their part, jointly with one to be appointed on the part of the House of Representatives, to revise the rules and orders by which the business between the two Houses shall be regulated, agreeably to the order of the 3d instant; and Mr. KING of New York, Mr. MACON, and Mr. GAILLARD, were appointed the committee on the part of the Senate.

Mr. KNIGHT submitted the following motion for consideration:

Resolved, That a committee be appointed to inquire into the propriety of reducing the compensation of the members of the Senate, members of the House of Representatives of the United States, and delegates of Territories, and all other officers in each of the Executive Departments, and Post Office Establishment; and that said committee have leave to report by bill or otherwise.

Mr. NOBLE presented the memorial of James McBride and others, citizens of the State of Ohio, praying the adoption of an uniform system of bankruptcy; the memorial was read, and referred to the Committee on the Judiciary.

The Senate adjourned to Monday.

MONDAY, January 7.

EDWARD LLOYD, from the State of Maryland, took his seat in the Senate; and also, WILLIAM PINKNEY, appointed a Senator by the Legislature of the State of Maryland, for the term of six years, commencing on the fourth day of March last, produced his credentials, was qualified, and he took his seat in the Senate.

JANUARY, 1822.

Official Compensation.

SENATE.

The PRESIDENT communicated a letter from the Secretary of the Navy, transmitting, for the use of the members of the Senate, sixty copies of the Naval Register for the year 1822; and the letter was read.

Mr. ORIS submitted the following motion for consideration:

Resolved, That five hundred copies of the calculations founded upon the returns of the last census be printed for the use of the Senate.

Mr. D'WOLF presented the memorial of William D'Wolf and others, merchants, traders, manufacturers, and others, of Bristol, Rhode Island, praying the passage of an act establishing an uniform system of bankruptcy; the memorial was read, and referred to the Committee on the Judiciary.

Mr. DICKERSON laid before the Senate the following preamble and instructions from the Legislature of the State of New Jersey, to wit:

"Whereas controversies exist between the States of New Jersey and New York, and of New Jersey and Delaware, concerning their respective boundaries; and whereas the Constitution of the United States has declared that the judicial power of the General Government shall extend to controversies between two or more States, thereby providing for the legal settlement of disputes which might otherwise endanger the peace and safety of the Union; and whereas Congress have hitherto omitted to carry into effect the wise and salutary provisions of the Constitution for that purpose, by vesting adequate power in the courts of the United States; therefore,

"Resolved, By the Council and General Assembly of this State, that our Senators and Representatives in Congress be requested to use their endeavors to procure the passage of a law for the decision of territorial or other controversies between States, in such manner as is authorized by the Constitution of the United States.

"Resolved, That his Excellency the Governor be requested to transmit copies of the foregoing preamble and resolution to each of our Senators and Representatives in Congress, to be by them laid before their respective Houses."

The document was read, and, on motion of Mr. DICKERSON, it was ordered to be entered at large on the Journal of the Senate—ayes 19, noes 12.

The bill authorizing the payment of a sum of money to Thomas Shields was read a third time, and passed.

The bill, entitled "An act for the relief of Samuel Clarkson and Alexander Elmslie" was read a third time, and passed.

Mr. SOUTHARD laid before the Senate a report and resolutions of the State of New Jersey, approving and recommending the Maryland proposition to grant to the old States, for the purposes of education, a portion of the public lands corresponding to the portions granted to the new States for that object; which were read, and laid on the table.

Mr. SOUTHARD presented the petition of James H. Clark, a purser in the Navy of the United States, praying relief in the settlement of his accounts, in consequence of his having been robbed of a certain sum of money, as stated in the petition;

which was read, and referred to the Committee of Claims.

Mr. CHANDLER presented the petition of Samuel Odlin, of Lubec, in the State of Maine, stating that he had made a contract with Lewis F. Delesdernier, late collector of the port of Passamaquoddy, for a certain parcel of land, which he had paid for and improved, without receiving a title therefor, which said land has been attached by and since set off to the United States, as Delesdernier's property; and praying relief. The petition was read, and referred to the Committee on the Judiciary.

The Senate resumed the consideration of the report of the Committee of Finance, to whom was referred the memorial of Paul Lanusse and F. Bailly Blanchard, merchants, of New Orleans; and the further consideration thereof was postponed until Wednesday next.

Mr. LANMAN laid before the Senate resolutions of the Legislature of the State of Connecticut, instructing their Senators and requesting their members of the House of Representatives to use their influence to procure the adoption of a system of retrenchment and economy in the public expenditures, corresponding with the national revenue; and particularly to exert themselves to procure that the compensation of the members of Congress be reduced to their former price; and, on his motion, they were laid on file.

A Message was received from the President of the United States, transmitting a report of the operations of the Mint for the last year; which was read.

The bill for the relief of John Coffee was considered as in Committee of the Whole, and ordered to a third reading.

The PRESIDENT laid before the Senate the memorial of the Legislature of Indiana, praying of Congress the grant of five or six thousand acres of untillable land, contiguous to the town of Vincennes, to be used as a town common; which was read, and referred.

OFFICIAL COMPENSATIONS.

The Senate, according to order, took up the following resolution, submitted on Friday last by Mr. KNIGHT:

Resolved, That a committee be appointed to inquire into the expediency of reducing the compensation of members of the Senate, members of the House of Representatives of the United States, and delegates of Territories, and all other officers in each of the Executive departments and Post Office Establishment; and that said committee have leave to report by bill or otherwise.

Mr. JOHNSON, of Kentucky, said he should like to hear some reasons in support of the expediency of agitating this subject at the present time; at least he should like to be convinced that the present pay of the members of Congress was too much, before he could assent to another discussion of it. It was a subject which had occupied much of his attention; he said he had, perhaps, been as much concerned in former proceedings on it as any man, yet he had not been able, so far, to convince him-

self that the present compensation was unreasonably high. This, Mr. J. said, was an unfortunate subject to be so repeatedly brought up in Congress; it was a delicate and invidious duty for a public body to fix its own pay, and the subject ought, therefore, when once fixed, to be stirred as seldom as possible. It had been recently acted on, and he thought Congress had then fixed their compensation at a reasonable amount. For his own part, Mr. J. said, he estimated his services to the public at least as high as the sum he received for them, and he might, therefore, value those of many other members, who had the advantages of age and experience, as well as of eminent talents, at much more. This, he observed, was a subject of difficulty as well as delicacy, and he would not consent to touch it again, unless those who sent him here should, after due consideration, desire him to do so. It was one which ought not to be agitated annually, like any ordinary matter; and he should deem it unwise to stir it more than once in twenty or thirty years, and not even then unless circumstances strongly required it. The people had been willing that it should rest twenty or twenty-five years, previously to the existing law establishing the pay of members; and as much as he respected the State of Rhode Island, which had instructed her Senators to bring the subject again before Congress, he must oppose its being acted on, until circumstances of great weight should demand its reconsideration.

Mr. J. said he hoped, at any rate, that the mover of the resolution would consent to let it lie on the table for some time longer. Towards the close of the session, he said, members would be better able to judge whether they could spare any part of their eight dollars. For himself he had little hope, judging from experience, that he should have much to spare at the end of the session; for however well he might be able to live at home on the produce of his farm and his garden, he, and he presumed every other gentleman, found the difference here. This, Mr. J. admitted, was a time for the exercise of economy, and he was as willing as any one to conform strictly to the spirit of true economy; but he contended it was most consistent with true economy to give to public servants, in responsible stations, a reasonable at least, if not a liberal compensation. There were other matters of great moment, he said, which claimed the grave consideration of the Senate; he himself had introduced a proposition to arraign the Supreme Court—though in using the expression he meant not the slightest indecorum to that respectable tribunal—but this, and other subjects awaiting the decision of the Congress, made him the more averse to take up this question of compensation, which would only distract the attention of the Senate, without, as he believed, eventuating in any good. While he thus expressed his opinion, Mr. J. said, he did not know that he should ever receive the eight dollars again; his political lamp was now expiring, and he knew not that his constituents would send him here again; he, therefore, spoke on this subject the more disinterestedly, but, whether in public or private life, he should entertain the same opinions

on this matter. In maintaining them on a former occasion, he had nearly been swamped, and had been tumbled into the gulf of popular displeasure so far as to be hardly able to reach the shore again. The subject was, therefore, one of deep interest to him, but he repeated that he thought it highly inexpedient, as it was, in his opinion, unnecessary, to agitate it again so early; and he hoped the resolution would at least be ordered to lie on the table, whence it might at any time be called up, if it should be the pleasure of the Senate.

Mr. KNIGHT, was far from wishing to press the consideration of the resolution before gentlemen had reflected on it, or were ready to examine it. In introducing the motion he had obeyed his convictions of public duty; it appeared to him there was a waste of public money, and, as the guardians of the public treasure, he thought it incumbent on Congress to inquire where this waste was, and apply the remedy. He would consent, however, to let the proposition, though one for inquiry merely, lie for some time longer, as it was desired.

Mr. OTIS thought it would be the better course to postpone the resolution altogether. It had become, as he had understood, the general sense of the Senate to be the correct course to abstain from originating much business, and to await, as far as was proper, the movements of the other House. If such was the sense of the Senate, and if there was any subject which ought, with more propriety, to originate in the other branch, it was this subject of compensation. The proposition was one relating to money, and was analogous to a money bill; it was one, therefore, which he conceived the Senate might, with the more propriety, leave to the other House. If, indeed, it were taken up, it would only waste much time in the discussion of it, without, as he firmly believed, resulting in any thing. Mr. O. was clearly in favor of leaving the subject to the House of Representatives, who, if they wished to act on it, would take it up; and he, therefore, moved that the resolution be indefinitely postponed.

Mr. LANMAN was opposed to the motion for indefinite postponement, because he was in favor of a consideration of the subject, and the motion would negative the proposition altogether. This was a subject, Mr. L. thought, of too much importance in this day of public pressure, to let it pass off so lightly. It became the Senate deliberately to examine into the subject, and decide on its merits. He was in favor of this course because he thought it the correct one, and because the State which he in part represented had recently expressed an opinion in favor of a retrenchment of public expenses, and particularly a reduction of the compensation of the members of Congress. He doubted, indeed, whether any thing would result from the inquiry proposed; but, inasmuch as the attention of Congress was requested to the subject by a State, and it became a State proposition, he would bestow on it at least a deliberate consideration. This proposition Mr. L. considered very different from a money bill, and he did not think that objection to the inquiry a well founded one.

JANUARY, 1822.

Cumberland Road.

SENATE.

Mr. LOWRIE observed that, if the motion for indefinite postponement prevailed, it would put it out of the power of the Senate, by its rules, to institute any inquiry, during the present session, into the salaries of any of the officers of Government. Whether such an inquiry would be deemed expedient, he did not know, but he should consider it wrong for the Senate to preclude itself from making the inquiry, should it be thought proper. The discussion, as far as it had gone, had embraced only the pay of the members of Congress, but that formed but a small part of the inquiry proposed by the resolution. As he would wish to retain the power of inquiry in the hands of the Senate, to be exercised, if it should hereafter be deemed necessary, he would prefer laying the resolution on the table; and, as that motion would take precedence of the other, Mr. L. moved that the resolution be laid on the table.

Mr. MACON said this subject had been brought before Congress by two States, and it was the general practice to treat a proposition, from even a single State, with the respect of considering it. He thought, therefore, that the course on this subject had been a little indecorous towards the States which had instructed their members to bring the inquiry before Congress. Motions for mere inquiry were rarely rejected in this body; and, as the indefinite postponement would be at once a vote of rejection in this case, he was opposed to it; he hoped the motion to lay the resolution on the table would have the preference. Mr. M. said it might not be improper to add the remark, that, if ever there was a time to inquire where any saving could be made, now was the time; for, to use a common phrase, it would be touch and go with the revenue. As to this being of the nature of a money bill, he had seen propositions much more like money bills originated and decided in this body, some of which the gentleman from Massachusetts (Mr. OTIS) had not, if he remembered rightly, found much fault with. Mr. M. thought, as the subject had been introduced, it would be much the more proper course to inquire if any thing ought to be done in it, and, if not, to say so.

The question was then taken on laying the resolution on the table, and agreed to.

THE CUMBERLAND ROAD.

The bill providing for keeping in repair the national road from Cumberland to the Ohio, was taken up, and having been read—

Mr. CHANDLER remarked that he did not find in the bill any provision for cases where persons might forcibly pass the gates without paying the toll required.

Mr. R. M. JOHNSON, of Kentucky, said that the expediency of such a provision had not escaped the Committee; but they concluded that, as such a clause would involve a question of constitutionality, and of course of some difficulty, it would be better to avoid the impediment which it might present, by reporting the bill in the naked form in which it was presented, and leave to future legis-

lation such a provision, if it should be found necessary.

Mr. MACON thought this much more like a money bill than the resolution just ordered to lie on the table; for this was, in fact, a tax levied on everybody that travelled on the road. He rose only to make this remark, without going into the merits of the subject.

On motion of Mr. JOHNSON, of Kentucky, the blank left in the bill for the salary of the superintendent of the road was filled with one thousand dollars.

Mr. EATON hoped the Senate would consent to postpone the further consideration of the bill for some days. It presented a question which required deliberation. He had seen enough and heard enough latterly about State rights, and it was proper to proceed cautiously to the adoption of any measure which might possibly produce further collision with the States. He moved that the bill be postponed to next Wednesday week; which motion prevailed, and the bill was postponed accordingly.

The bill granting to the State of Louisiana the right of pre-emption to a tract of land in the county of Point Coupee, for the use of schools in that county, was next taken up; and, after some discussion as to the propriety of acting on this bill before the general question of granting to the old States a portion of public land for the purposes of education was decided, in which Messrs. DICKERSON, THOMAS, EATON, BROWN, and LLOYD, took part—

The bill was postponed temporarily—ayes 16, noes 15.

TUESDAY, January 8.

Mr. SMITH, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act reviving and extending the time allowed for the redemption of land sold for direct taxes in certain cases," reported the same without amendment.

Mr. HOLMES, of Maine, to whom was referred the bill to establish the district of Blakeley, reported the same without amendment.

Mr. NOBLE presented the memorial of William Conner and others, praying that the right of pre-emption to a certain section of land may be granted to the said William Conner; the petition was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the motion of the 7th instant, that five hundred copies of the calculations founded upon the returns of the last census be printed for the use of the Senate; and agreed thereto.

Mr. MORRIL presented the petition of Ebenezer Williams, of New Hampshire, a soldier in the Revolutionary Army, praying a pension; the petition was read, and referred to the Committee on Pensions.

On motion by Mr. LANMAN, it was agreed to reconsider the vote postponing the bill granting to the Governor of the State of Louisiana for the

SENATE.

Military Roads—Duty on Books.

JANUARY, 1822.

time being, and his successors in office, two tracts of land in the county of Point Coupee, until Monday the 21st instant; and the further consideration thereof was postponed until Tuesday next.

The engrossed bill for the relief of John Coffee was read the third time, passed, and sent to the House of Representatives.

MILITARY ROADS.

Mr. JOHNSON, of Louisiana, laid on the table the following resolution :

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of providing by law for the repairing and the preservation of the military road, beginning at Madisonville, in the State of Louisiana, and terminating at Florence, on the Tennessee river.

In offering this resolve, Mr. JOHNSON said the object of the resolution he submitted was to provide for the repairing of the great military road leading from Madisonville, in the State of Louisiana, to Florence, in the State of Alabama. That this road, which he considered among the most important in the Union, was opened by the troops of the United States, under the command and direction of Major General Jackson, to whom great credit is due, not only for the origin of the plan, but for the personal attentions bestowed by him in marking out and constructing it. He was of opinion that perhaps no national work had been accomplished which is calculated to be of more general utility; that its importance is not confined to the States of Louisiana, Mississippi, Alabama, and Tennessee—the whole Western country, he said, is interested in seeing it kept in repair; that it is designed to be one of the most important military highways in the United States; that, in time of war, the necessity of it would be evident, in facilitating the collection and transportation of our physical force and military supplies. He stated that it had been established some time since, by an act of Congress, as a post road, and that it is desirable that the proper steps should be immediately adopted for the transportation of the mail to and from New Orleans by this route, in covered carriages; that the distance from Nashville to New Orleans, by this road, is, as he was informed, about three hundred and fifty miles less than the route formerly travelled.

But, he added, that the road is now almost unfit for use; that the bridges had, from necessity, been made of green wood, and are decaying; and that, unless provision should be made for keeping them in repair, and removing the timber which had fallen in the road, it would soon be abandoned; that the greater portion of the country through which it passes is a wilderness nearly uninhabited, owned by Indians, and by the United States; and that, consequently, it could only be repaired and preserved by the authority of the General Government.

Mr. J. said, that, as to the best mode of effecting the object in view, whether it should be accomplished by employing the troops of the United States, or by establishing a turnpike and fixing a toll, or by other means, he was not prepared to

say; that perhaps it would be deemed most expedient to establish a turnpike, and to allow a toll; that he thought it a proper subject for the inquiry of a committee.

DUTY ON BOOKS.

Mr. HOLMES, of Maine, from the Committee on Finance, to whom was referred the memorial of the trustees of the Transylvania University, praying for a repeal of the duties on books imported into the United States, made the following report:

That the act of Congress of the 27th April, 1816, establishing the existing tariff, has included books among the unenumerated articles at an ad valorem of 15 per cent.

The second section of that act exempts from duty "all articles for the use of the United States, philosophical apparatus, instruments, *books*, maps, statues, busts, casts, paintings, drawings, engravings, specimens of sculpture, cabinets of coins, gems, medals, and all other collections of antiquities, statuary, modelling, painting, drawing, etching or engraving, specially imported by order and for the use of any society incorporated for philosophical or literary purposes, or for the encouragement of the fine arts, or by order and for the use of any seminary of learning."

To justify an encroachment upon this tariff, by the exemption of particular articles, we should consider its effects, and understand its bearing upon the general system. It is possible that the exemption required would be chiefly felt in the price of the article exempted, and the manufacture of paper and printing types; and that its influence would be imperceptible or trifling upon the other branches of enterprise and industry. It may, then, be considered in its operations upon the manufactures, the revenue, and the consumption.

The Constitution of the United States has placed authors under the protection of Congress. Essential to this protection is the encouragement of printing. Could foreigners maintain a successful competition with the American publisher, the American author would experience embarrassment and disappointment; foreign books would inundate the literary market; and even his own productions, from a foreign press, might be made to impair, if not defeat, his exclusive right.

The art of printing in the United States is rapidly advancing to its highest perfection. Samples have already been produced which will scarcely suffer by comparison with the best specimens of other nations. Still, the art has to encounter embarrassments. Comparatively, our capital is small, our labor high, and our skill not perfect. Such is our enterprise, that American competition has already done much to diminish profit and impede success. Remove this protecting duty, and foreigners, particularly the British, who speak the same language, whose labor is cheap, and skill matured, may overwhelm our market, and become the exclusive bookmakers for the United States.

Connected with this is the duty on paper. The manufacturer of this principal article of the printer's consumption is protected by an ad valorem of thirty per cent. So long as this operates as a protection to the paper maker, it is a tax on the bookmaker. By this partial interference, therefore, you leave the burden, while you remove the equivalent.

JANUARY, 1822.

Proceedings.

SENATE.

The manufacture of printing types in the United States is of recent origin. Such, however, has been its progress, that in 1816 Congress determined that the manufacturer required, and the consumer could sustain, an impost of twenty-five per cent. But, inasmuch as this art may be considered as still in its infancy, the competition at home will not, for a long time, create a depression of the price; and this duty will, consequently, remain a tax on American printing.

In this view of the subject, it is apprehended that it would be unequal, impolitic, and unjust, to single out this important branch of industry, strip it of all protection, and leave it to struggle with powerful competitors, to its serious embarrassment and probable destruction.

But the protection of the manufacturer, and the burden upon the consumer, are not our only objects of consideration in establishing a tariff on importations. It is our principal, and, ordinarily, our only source of revenue. Flourishing as our revenues are said to be, it seems to be agreed that we have no money to spare. "Loans, which consume the future," have become necessary; and rigorous economy and retrenchment must be enjoined and practised to prevent a recurrence to this pernicious expedient.

The exemption required would probably diminish the revenue beyond the amount of the duty repealed. Should American printing diminish, it would cause a corresponding diminution of the materials of consumption; and the impost on paper and types would probably vanish almost contemporaneously with that on books. It ought, moreover, to be noticed that, in England, there is a bounty or drawback on the exportation of British books of three-pence sterling on the pound weight. Now, inasmuch as our duty is ad valorem, and their bounty is specific, not according to the value, but the weight of the books, their cheap editions may be imported into the United States at a premium which will about balance our duty of fifteen per cent. Their more expensive editions, and all books in foreign languages, are chiefly wanted for our literary institutions; and for these they are already free. The inquiry, then, is, what portion of the community requires this repeal? Every college, academy, and other seminary, and every corporation for literary purposes, is now exempt. All members and students of these institutions are, consequently, exonerated of the burden of this tax. The question recurs, who is to experience the benefit of the exemption? Surely not the instructors, nor students in the higher branches of literature; for they are already relieved. Certainly not the members of our common schools; for ordinary British editions are compensated by a bounty. American school books are plenty and cheap; and those in foreign languages are not required for general use; and it is equally certain that our manufactories forbid it, and our Treasury can scarcely afford it. None, then, but the professional gentleman, who can afford to extend his library beyond the resources of American publishers, or the scholar of wealth and leisure, who would indulge his taste in selecting the most elegant and expensive editions of foreign authors, can be interested in its favor. And is it expedient at this time to interpose this relief? To tax foreign luxuries is a dictate of the soundest policy. Expensive and highly finished editions are as much a luxury as any other extravagant expenditure. A moderate duty on such books, to be limited almost exclusively to gentlemen of wealth,

could never subject us to the imputation of an indifference to education. Few nations, perhaps, have done more for the diffusion of knowledge. In the endowments and support of primary schools, we are second to none. Great Britain exacts an impost on all imported books, and allows a bounty on the exportation of her own. France exacts a specific duty of 100 francs per 100 killogrammes on books in the French language. To those reprinted from French editions is added 50 per cent., and pirated editions are entirely prohibited. There is, however, a deduction of 50 per cent. for scientific memoirs, and of 90 per cent. for books in the dead or foreign languages. Spain admits free of duty books, maps, and charts on the subject of navigation, when introduced for purposes of instruction. But we have surpassed them, and have, not improbably, exceeded the limits of a sound and enlightened policy.

With few exceptions, the English is our native and ordinary language. It is spoken as universally and purely as in England itself. But lately, we were a part of the British Empire. From thence we have derived many of our habits, customs, and laws. We still esteem Great Britain as eminent in arts, sciences, policy, and power. Our principal and subordinate seminaries of learning are chiefly furnished with British books, and our youth are taught by British authors, wedded to their own institutions, and exultingly proud of their country, constitution, and laws. These means of a foreign influence have long been perceived, and have excited the jealousy of grave and intelligent politicians. Our Government is peculiar to ourselves; and our books of instruction should be adapted to the nature of the Government and the genius of the people. In the best of foreign books we are liable to meet with criticisms and comparisons not very flattering to the American people. In American editions of these, the offensive or illiberal parts are expunged or explained, and the work is adapted to the exigencies and taste of an American reader. But withdraw the protection which our tariff affords, our channels of instruction will be foreign; our youth will imbibe sentiments, form attachments, and acquire habits of thinking, adverse to our prosperity, unfriendly to our Government, and dangerous to our liberties. Your committee, therefore, recommend the following resolution:

Resolved, That it is, at this time, *inexpedient* to repeal the duty on the importation of books.

WEDNESDAY, January 9.

The PRESIDENT communicated a letter from the Secretary of the Navy, transmitting a report of the Commissioners of the Navy Pension Fund, made in obedience to the act for the better government of the Navy of the United States; and the letter and report were read.

Mr. MILLS presented the petition of James Conant, of Oakham, Massachusetts, praying a pension; the petition was read, and referred to the Committee on Pensions.

Mr. VAN DYKE presented the memorial of Thomas Robinson, in behalf of himself and others, children of the late General Thomas Robinson, of Delaware, who was one of the sureties of Sharp Delany, collector of the customs for the port of Philadelphia, praying relief in the final settlement of those accounts; the memorial was read, and

SENATE.

Proceedings.

JANUARY, 1822.

referred to a select committee, to consist of five members, to consider and report thereon by bill or otherwise; and Messrs. VAN DYKE, MACON, LOWRIE, MILLS, and DICKERSON, were appointed the committee.

Mr. THOMAS presented the memorial of John Caldwell and others, purchasers of certain lots in Shawneetown, which they presented to the county of Gallatin, for the purpose of erecting a courthouse and jail, praying that the balance of the purchase money due may be remitted; the memorial was read, and referred to the Committee on Public Lands.

Mr. DICKERSON gave notice that to-morrow he should ask leave to introduce a bill prescribing the mode of commencing, prosecuting, and deciding controversies between States.

The following Message was received from the PRESIDENT OF THE UNITED STATES:
To the Senate of the United States:

In pursuance of a joint resolution of the two Houses of Congress, of the 3d of March, 1821, authorizing the President to cause such number of astronomical observations to be made, by methods which might, in his judgment, be best adapted to insure a correct determination of the longitude of the Capitol, in the City of Washington, from Greenwich, or some other known meridian in Europe, and that he cause the data, with accurate calculations, or statements founded thereon, to be laid before them at their present session, I herewith transmit to Congress the report made by William Lambert, who was selected by me, on the 10th of April last, to perform the service required by that resolution.

As no compensation is authorized by law for the execution of the duties assigned to Mr. Lambert, it is submitted to the discretion of Congress to make the necessary provision for an adequate allowance to him, and to the assistant whom he employed to aid him in his observations.

JAMES MONROE.

WASHINGTON, Jan. 8, 1822.

The Message and report were read.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:
To the Senate of the United States:

I transmit a report of the Secretary of the Navy, together with a survey of the coast of North Carolina, made in pursuance of a resolution of Congress of the 19th January, 1819.

JAMES MONROE.

WASHINGTON, Jan. 7, 1822.

The Message and report were read; and referred to the Committee on Naval Affairs.

The Senate resumed the consideration of the report of the Committee of Finance, to whom was referred the memorial of Paul Lanusse and F. Bailly Blanchard, merchants, of New Orleans; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to establish the district of Blakeley; and no amendment having been made thereto, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed the consideration of the motion of the 8th instant, for instructing the Committee on Roads and Canals to inquire into the expediency of providing, by law, for the repairing and preservation of the national road, beginning at Madisonville, in the State of Louisiana, and terminating at Florence, on the Tennessee river; and agreed thereto.

Mr. OTIS submitted the following motion for consideration:

Resolved, That the President of the United States be requested to cause to be transmitted to the Senate a return of the net amount of duties collected annually for the last five years upon the importation of books; distinguishing, so far as it can conveniently be done, the amount accruing upon books printed in foreign languages.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act reviving and extending the time allowed for the redemption of land sold for direct taxes in certain cases;" and no amendment having been made thereto, it was reported to the House, and passed to a third reading.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the memorial of the Trustees of the Transylvania University, praying for a repeal of the duties on books imported into the United States; and the further consideration thereof was postponed until the third Monday in this month.

THURSDAY, January 10.

Mr. LOWRIE presented the petition of George Simpson, of Philadelphia, praying relief in the settlement of his accounts with the Treasury Department; the memorial was read, and referred to the Committee on Finance.

Mr. GAILLARD submitted the following motion for consideration:

Amend the 22d rule for conducting business in the Senate, by striking out all after the word "Chair," and by inserting, in lieu thereof, the following:

"And the Vice President, when indisposed at the Seat of Government, may name, in writing, a Senator who shall preside in his stead; in which case an entry thereof shall be made on the Journal of the Senate; but in no case shall any substitution extend beyond an adjournment."

The Senate resumed the consideration of the motion of the 9th instant, requesting the President of the United States to cause to be transmitted to the Senate a return of the net amount of duties collected annually, for the last five years, upon the importation of books; and agreed thereto.

Mr. OTIS presented the memorial of William Phillips and Gardner Greene, of Boston, in the State of Massachusetts, stating that they are proprietors, by purchase, of a certificate of funded debt originally issued to the State of Massachusetts, praying that the same may be made transferable; the memorial was read, and referred to the Secretary of the Treasury.

Mr. SMITH, from the Committee on the Judiciary, to whom was referred the petition of Josiah

JANUARY, 1822.

Uniform System of Bankruptcy.

SENATE.

Hook, made a report, accompanied by a bill for the relief of Josiah Hook, junior; and the report and bill were read, and the bill passed to a second reading.

The bill to establish the district of Blakeley was read a third time, and passed.

The bill, entitled "An act reviving and extending the time allowed for the redemption of land sold for direct taxes in certain cases," was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to establish the compensation of officers of the customs, and to alter certain collection districts, and for other purposes; and the further consideration thereof was postponed until Monday next.

On motion, by Mr. DICKERSON, the Committee on Commerce and Manufactures, to whom was referred the petition of William Nott, and others, syndics of the creditors of George T. Phillips, late of New York, merchant, were discharged from the further consideration thereof, and it was referred to the Committee on Finance.

Agreeably to notice given, Mr. DICKERSON asked and obtained leave to introduce a bill prescribing the mode of commencing, prosecuting, and deciding controversies between States; and the bill was read, and passed to the second reading.

Mr. LLOYD submitted the following motion for consideration:

Resolved, That the appropriations of territory, for the purpose of education, should be made to those States in whose favor no such appropriations have been made, corresponding in a just proportion with those heretofore made to other States in the Union.

Resolved, That the foregoing resolution be referred to a select committee, with instructions to report a bill pursuant thereto.

UNIFORM SYSTEM OF BANKRUPTCY.

Mr. LLOYD presented the memorial of the Chamber of Commerce of the city of Baltimore, praying for the passage of a law establishing an uniform system of bankruptcy; the memorial was read, and referred to the Committee on the Judiciary. It is as follows:

To the Senate and House of Representatives of the United States in Congress assembled: The Chamber of Commerce of the city of Baltimore respectfully present their opinion in favor of a uniform system of bankruptcy:

Such a system is naturally incident to every commercial community; it results necessarily from the rights and fluctuations of property, and seems to be an essential attribute of active and humane society. All enlightened nations, even those not so vitally mercantile as the United States, have given this shelter to the debtor, and this assurance to the creditor. But it is now absolutely adjudged that no such protection can be administered by the limited sovereignty of the States; and, while the Federal authority affords no resource, the grievance of our privation is universally severe. Hence it is that we desire to awaken that Constitutional power with which you are invested, and which has so long been dormant. While we solicit from this power a uniform system of bankruptcy, to it we our-

selves submit the interests of our diversified commerce, the diligent spirit of our enterprise, and, more than all, the pervading cause of individual happiness. A process of bankruptcy not only intercedes for the debtor, but, since it may be brought into action at the creditor's instance, it also empowers the creditor to limit the indiscreet adventure and wasteful progress of the debtor, and, in furnishing this scrutinizing control, it strengthens the security of contract.

But, independently of this consideration, so important to the confidence on which commercial intercourse relies, the relief which it yields to the debtor is not only sanctioned but commanded by every civilized feeling and every principle of social justice. Without such a resource, humanity may be violated by the creditor, and trust abused by the debtor; with claims which beset his existence, his industry is fearfully circumscribed, and his enterprise expires; the public good loses the benefit of a free industry, and while the debtor is kept in this slavery to obligations, the creditor's claim, severely as it may press, presses fruitlessly.

Various insolvent systems prevail throughout the United States. Our domestic commerce is extensive, and our population has a migratory spirit; these systems reflect so many various lights and contingencies on the transactions within the scope of our domestic trade, and are so many contentious embarrassments to it. But a uniform system of bankruptcy would regulate and identify all these United States; it would give a permanent boundary, a definite guide and appeal to the creditor; and, to consummate its excellence, it would give peace and zeal to the debtor in his poverty, after passing through the watchful investigation of the law. The mere certainty of law is always important, and often more so than the choice of any particular provisions of its enactment; and as all the intercourse of society is so much prompted and affected by pecuniary views and relations, an ascertained and general system of bankruptcy would tend to give to this country an actual union of confidence as much as any measure within your legislative power.

In the name of the debtor and of the creditor, in behalf of the national good, and in vindication of the national humanity, we solicit this benefit of the Constitution of the United States; in that safeguard the debtor will find his home, and thence that the defined privileges of the creditor must be expected.

And we will ever pray, &c.

In behalf of the Chamber of Commerce.

ROBERT GILMORE, *President.*

WILLIAM COOKE, *Secretary.*

DECEMBER 18, 1821.

FRIDAY, January 11.

Mr. SMITH, from the Committee on the Judiciary, to whom was referred the resolution providing for the distribution of the marshals' returns of the fourth census, reported the same without amendment.

Mr. WALKER presented the petition of Alfred Moore and Sterling Orgain, praying the payment of an account against the United States; the petition was read, and referred to the Committee of Claims.

Mr. THOMAS, from the Committee on Public Lands, to whom was referred the bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising

from the sale of the public lands within the same;" and also, the bill, entitled "An act for the relief of Peggy Mellen," reported them respectively without amendment.

Mr. JOHNSON, of Louisiana, gave notice that, at the next sitting of the Senate, he should ask leave to introduce a bill to amend the act, entitled "An act concerning pre-emption rights given in the purchase of lands to certain settlers in the State of Louisiana."

Mr. WARE gave notice, that, at the next sitting of the Senate, he should ask leave to introduce a bill concerning the process of execution issuing from the sixth circuit court of the United States for the district of Georgia.

The Senate resumed the consideration of the motion of the 10th instant to amend the 22d rule for conducting business in the Senate; and the same having been modified, on motion, by Mr. MACON, it was laid on the table.

The bill for the relief of Josiah Hook, junior, was read the second time.

The bill prescribing the mode of commencing, prosecuting, and deciding, controversies between States, was read the second time, and referred to the Committee on the Judiciary.

Mr. VAN BUREN presented the memorial of J. B. Stuart, who was the purchaser of some lots of land in the State of Ohio, praying relief in the settlement of his accounts; the memorial was read, and referred to the Committee on Public Lands.

The Senate adjourned to Monday.

MONDAY, January 14.

Mr. TALBOT laid before the Senate, resolutions of the Legislature of the State of Kentucky, in relation to a portion of the public lands of the United States, as a means of creating a fund for promoting education, and to the right of the several States of the Union to a part of the same for that purpose. The resolutions were read, and laid on file.

Mr. PLEASANTS presented the petition of Byrd C. Willis and others, of the State of Virginia, who were securities for Joseph Pettipool, as paymaster to that portion of the American army recruited and stationed at and near Fredericksburg, in said State, praying relief in the settlement of his accounts. The petition was read, and referred to the Committee of Claims.

Mr. LANMAN presented the memorial of sundry inhabitants of Stonington, and others, praying for the erection of a lighthouse on Stonington point; the memorial was read, and referred to the Committee on Commerce and Manufactures.

Mr. JOHNSON, of Louisiana, from the Committee on Indian Affairs, laid before the Senate a communication from Thomas L. McKenney, Superintendent of Indian Trade, embracing information called for by said committee; the communication was read, and ordered to be printed for the use of the Senate.

Mr. JOHNSON also presented the petition of Francois Larche, a free man of color in the city

of New Orleans, praying compensation for a negro man, who, having been impressed into the service of the United States, was killed during the invasion of Louisiana by the British in the late war; the petition was read, and referred to the Committee of Claims.

Mr. JOHNSON also presented the petition of Antoine Bienvenue, of Louisiana, praying compensation for the destruction of his property during the invasion of that State by the British, in 1814 and 1815; the petition was read, and referred to the Committee of Claims.

Agreeably to notice given, Mr. WARE asked and obtained leave to introduce a bill, concerning the process of execution issuing from the sixth circuit court of the United States for the district of Georgia; the bill was twice read by unanimous consent, and referred to the Committee on the Judiciary.

Mr. NOBLE presented the petition of Samuel Walker, of Wayne county, in the State of Indiana, praying compensation for rations furnished during the late war; the petition was read, and referred to the Committee of Claims.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the memorial of Paul Lanusse and F. Bailly Blanchard, merchants, of New Orleans; and, on motion by Mr. JOHNSON, of Louisiana, it was laid on the table.

AMENDMENT TO THE CONSTITUTION.

The Senate then proceeded, according to the order of the day, to the consideration of the following resolution, submitted by Mr. R. M. JOHNSON, of Kentucky, on the 12th of December:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the following amendment to the Constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid, to all intents and purposes, as part of the said Constitution:

"That, in all controversies where the judicial power of the United States shall be so construed as to extend to any case in law or equity, arising under the Constitution, the laws of the United States, or treaties made, or which shall be made, under their authority, and to which a State shall be a party; and in all controversies in which a State may desire to become a party, in consequence of having the constitution or laws of such State questioned, the Senate of the United States shall have appellate jurisdiction.

Mr. JOHNSON said, the Constitution of the United States contains a clause, prescribing the manner in which amendments may be obtained. This is conclusive evidence that the wise men who framed it were of opinion that experience would develop imperfections in the system, which might require a remedy. The models of antiquity, with all the improvements of modern times, in relation to confederated governments, were before them. The Amphictyonic Council, by which the republics of Greece were united; the Achæan league, which so long governed the cities of Achaia; the confederation of the Germanic Empire, and the Belgic confederacy, which prevailed in the pro-

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

vinces of the Netherlands, all furnished examples for their improvement.

The history of these confederacies, said Mr. J., shed a light upon the subject, by which they profited. In some, the consolidation of power was so great, as to weaken the members, and endanger their liberties; in others, the federal power was not sufficient to preserve their integrity, and disunion and carnage were the effects of their imbecility. In establishing the principles of this Confederacy, it was intended to guard against these two extremes, by so dividing the powers between the General and State Governments, as to rest on the isthmus between consolidation on the one hand, and discord on the other; and so to define the attributes of each, as to produce harmony in all their operations.

When the struggle for independence, which had been their bond of union, was past, and clashing interests began to provoke animosities, it was obvious to all, that, under the articles of the Old Confederation, the General Government was too feeble for the purposes of national prosperity; and all concurred in the sentiment, that some change was necessary. The only question was, how great that change should be? The difficulty, and the sole difficulty, was, to determine the proper distribution of power. How to divide the sovereignty between two distinct governments, deriving their authority from the same source, each supreme within its own legitimate sphere of action, and yet so to regulate and define the power of both as to produce perfect concord, was the great political problem to be solved by the statesmen of that day. It was not to be expected that the first experiment would perfectly effect this object. If it was anticipated by any, disappointment has followed the utopian delusion. The highest tribute of respect, however, is due to the wisdom of the patriots who framed the Constitution, in so arranging this complicated machinery of a sovereignty within sovereignties, as to admit of that degree of harmony which has prevailed; but there is a limit to the intellect of man. All that wisdom and patriotism could do, they have done; but imperfections which human sagacity could not foresee, were to be developed by experience, and the corrective applied by mutual consent.

It is admitted by all, that the States and General Government possess concurrent powers; that they also possess powers exclusive of each other; and that the Federal Constitution prescribes limitations upon both. In this complex system, disorders are to be expected; some, of an incidental nature, not easily controlled; others, that admit a remedy. After an experience of thirty-two years, it becomes our imperious duty to begin this inquiry, relative to the conflicts between the Federal judiciary and the sovereignty of the States. These conflicts are become so frequent and alarming, that the public safety demands an investigation, that it may be determined where the error lies. Unless we point out the real difficulty, and ascertain the just claims of each party, we shall be overspread with Egyptian darkness. When the parties are not agreed upon the line which divides

their powers, the question is, which shall preponderate, and which shall concede? The States claim authority which the Federal judiciary denies¹ and the Federal judiciary exercises powers which the States do not acknowledge to be legitimate. There is no umpire to decide between them; and the difficulty is, to determine which shall submit. It is contended on the one part, that, as the General Government was instituted for national purposes, its claims to the highest supremacy must be superior to those of the States; and that it is an essential attribute of national sovereignty, that its judiciary shall be the judge of its own powers, and shall have authority to overrule every other tribunal, according to its own sovereign will and pleasure. But this argument cuts like the two-edged sword, and furnishes a position quite as strong in favor of the States. It is not denied, that all power not delegated to Congress, nor prohibited to the States, is reserved to the States respectively, or to the people; that the States are also supreme and independent within the orbit of their powers. If, then, it is the attribute of sovereignty to judge of its own powers, where is the sovereignty of the States, if that judgment must be submitted to the Federal judiciary? The argument is precisely the same in both cases, and may be called an argument in a circle.

It is contended by some of the States, Virginia for instance, that the States have superior claims to an exclusive decision in all cases of conflicting power. The States are the original fountain of power, a portion of which they have delegated and vested in a General Government, for objects common to all. The General Government is the creature of the States, and exists by their permission. Then, as it is a principle universally acknowledged, in religion and morality, that the creator is superior to the created, so it is contended that the States have the indubitable right of exclusive decision in all cases of conflict, whether they respect a violation of the delegated powers, or the exercise of that authority which is reserved to the States respectively, or to the people. To say the least of it, there is much plausibility in this argument. But, it involves a difficulty as to the manner in which this right of decision shall be exercised. If each State shall decide separately, confusion would probably arise from contradictory decisions on the same point, in different States; but even this objection may have more plausibility than substance. Should the States attempt to exercise any of the specific powers granted exclusively to Congress, or to arrest the General Government in the exercise of power expressly delegated, the consequence might be unfortunate; but, in reviewing the conduct of the States, and marking the particular points of contact, it does not appear, from the history of our Government, that the States have, in any one case, attempted this, though the Federal judiciary has assumed a guardianship over the States, even to the controlling of their peculiar municipal regulations. If the States have the right of decision, there is a difficulty in giving their decision an efficacious operation. If it belongs to them col-

lectively, there must be a regular method of ascertaining and promulgating their decisions.

In the cases of collision between Pennsylvania and the General Government, much was said and written respecting the rights of the parties, and the necessity of a tribunal that could remedy the evil. It appears, from the decisions of her State courts, the periodical publications and official documents of that day, that Pennsylvania recognised and claimed an equality of right with the General Government, to decide in Constitutional cases affecting her sovereignty; that, in serious collisions, an umpire was necessary; and that no tribunal was more proper than this body. This doctrine is universally acknowledged as a correct maxim betwixt civilized nations, and is sometimes resorted to for the amicable settlement of disputes between them. Assuming the Pennsylvania position, and the conclusion is irresistible, that the parties being equally sovereign within their circle of power, it is a flagrant outrage to justice, a violation of every principle of equity, for one to arrogate to itself the exclusive power of judging in all cases of disagreement.

Let us now inquire into the safest and most satisfactory method of determination when these conflicts arise. We are not left entirely to the conjectures of reason on this subject; the light of experience illuminates our path. Under all circumstances, and in every condition of society, there is a rational mode of settling differences. When they arise betwixt friends, a candid exposition of the grounds of difficulty is always the most honorable, and presents the fairest prospect of a happy result. The Sacred Writings, which furnish a perfect standard of morality, are not silent on this subject. They teach forbearance towards an enemy—much more in a case like this, where the parties are friends. We must forgive, not only seven times, but seventy times seven. This political controversy we should gladly cover with the darkest shade of oblivion; but, unfortunately, the doctrine of Federal supremacy is the basis of encroachment—and the principle is established by a judicial tribunal which knows no change. Its decisions are predicated upon the principle of perfection, and assume the character of immutability. Like the laws of the Medes and Persians, they live forever, and operate through all time. We have a memorable example in the history of Ahasuerus, of the immutability of their laws, and the manner in which the cruelty of an unrighteous edict was prevented by a countervailing decree. Haman, the Prime Minister, intoxicated with that inordinate love of power which is but too common to mankind, to wreak his vengeance upon Mordecai the Jew, because he refused to bow the knee to him, procured from his Sovereign a decree, which he published in every province of the Empire, authorizing a general slaughter of the Jews on an appointed day. When the monarch saw that the preserver of his own life, and the companion of his own bosom, were both involved in the calamities which awaited that devoted people, he would gladly have revoked his decree; but every thing done there was immutable, and

the decree must stand. Yet he found means to counteract the effect of what he could not change, by issuing another decree, which authorized the Jews to bear arms in their own defence. The consequence was, that the meditated calamity was averted, and its author was suspended upon the same gallows that he had erected for the intended victim of his haughtiness. But no decrees of the sovereign people, no earthly tribunal can avert the evils which may grow out of a supreme judicial decision. It constitutes the common law of the land; it forms the basis of future decisions, and justifies similar encroachments to the end of time. It is omnipotent in its character, and irresistible in its march. All obstacles must yield to its demands; all nature must obey its mandates—the mountains must bow and the valleys rise before it.

If your neighbor offend you, remonstrate gently with him alone; if he refuse to hear you, take one or two witnesses to certify the case; if he still continue obstinate, bring him before the whole congregation, where all the power resides, and there let justice be decreed. If one nation injure another, a similar course may effect a settlement. When negotiation fails, an umpire is sometimes chosen, and in the last resort, the force of arms will decide where no tribunal can be had. But, in the case of conflicting power between the States and the Federal authorities, which party must yield? Force is out of the question. The States are at least equal in the right of sovereignty, if not in the power of enforcing it; and it is unrighteous to demand submission from them without an investigation of their claims by a disinterested tribunal. Shall the weaker be compelled to yield? Right and power are not synonymous; and we should recollect that the race is not always to the swift, nor the battle to the strong. Difficulties thicken upon us as we advance, and demand interposition. It cannot be denied that serious collisions have taken place in our system which call for investigation. If any of the principles established by the Federal Judiciary operate as an encroachment upon State rights, it should be recollected that the evil is without limitation of time. An oppressive law may be repealed, and, when the oppression is felt, the repeal is certain; but here is no repeal, no corrective, no end. We may look coolly on while the work of consolidation is progressing, which must ultimately swallow our liberties; or, we may mourn the threatening desolation, without the power of arresting its progress, unless we provide a Constitutional check. If in every collision the Federal Judiciary has been correct, and if it never shall err in future, yet the provision for appeal will be not only harmless, but beneficial. It will allay those apprehensions, and satisfy the minds of those who are disquieted with needless alarms. It will restore that confidence upon which our system of Government is founded, and preserve that harmony which is essential to its prosperity.

At this time there is, unfortunately, a want of confidence in the Federal Judiciary, in cases that involve political power; and this distrust may be carried to other cases, such as the lawyers call

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

meum et tuum. It is the opinion of many eminent statesmen that there is a manifest disposition, on the part of the Federal Judiciary, to enlarge, to the utmost stretch of Constitutional construction, the powers of the General Government, at least in that branch, and by consequence to abridge the jurisdiction of State tribunals. I do not assert this to be the fact; but, if it is not, we should adopt some method, if practicable, to remove these ill-founded suspicions. The desire of extending our own power is a universal law in our nature, to which the just and the unjust, the wise and the foolish, are all subject, though in unequal degrees; and I do not design in any way to impugn the learned members of the bench, when I admit the possibility of the same propensity remaining with them. It has found its way to elevation in other countries, and to prevent its influence here, some rational method should be devised to define and regulate that power. Political power, properly divided into co-ordinate branches, and judiciously regulated, produces happy results—but, when sovereign and irresponsible, it carries in its train the wreck of human happiness—desolation marks its bloody progress, for with it moral and physical power are always blended. The blessings of a good Government furnish themes of rejoicing and praise; but the curses of a bad Government bring sorrow to the heart. The history of nations furnishes us with instructive lessons, while we trace the hand of tyranny in the fall of empires, but the love of power is a principle still in operation, and no premonitions can teach us moderation. It begins with childhood, and does not cease with age. It is the belligerent principle which predominates in the social circle, and genders strife where perfect peace should reign. It is the prolific source of war with independent communities, which has spread desolation over countries and stained the whole world with blood. Uncontrolled, it is inordinate ambition; properly regulated, it is emulation. If we did not know this to be the character of man, delineated in all his history, we might indulge the hope of everlasting repose, under our mild institutions. Happy would be our lot, if every department should confine itself to the faithful performance of its own functions, carefully avoiding all interference with others, or even the exercise of doubtful power; but the history of the present times furnishes us with memorable examples of the reverse, and teaches us to anticipate no such repose. We must take human nature as it is; and to be secure from danger, it is necessary to provide against the encroachment of power in one department upon another, and, in all, upon the rights of the people.

It is a principle interwoven, both in the theory and practice of our Government, that every department which exercises political power shall be responsible to the people. Here lies our safety and our strength. Representation and responsibility must go hand in hand—bone of her bone and flesh of her flesh. The republics of Greece and Rome were ignorant of the force of this principle, and practised it to a very limited extent. After the abolition of monarchy in Athens, the *Archons* were

elected annually by the people. The *Ephori* of Sparta were elected in the same way, and the Romans elected their *Tribunes*; but all those were a kind of executive officers. In each of those Governments the people, *en masse*, were assembled to decide on public affairs, and each State had a Senate permanent in office and independent of the people. In modern days the principle of representation has been but very imperfectly understood among the nations of Europe, except in England, where it was introduced as early as the ninth century, in the reign of Alfred, and has been perpetuated in some form to the present time. But, though the theory of representation and responsibility has been taught there, the practice has been but imperfectly regarded. It has been so limited and so defective in its operation, that its benefits are almost entirely lost and the forms only preserved. In the United States alone, whose Government presents to the world a model of excellence, and is the anchor of hope to man, the theory and practice are united in every department of the Government except the judiciary. This exception may satisfy the mind that it was never designed to confide political or legislative power to that department, especially the power of repealing laws enacted by the legislative departments, both of the General Government and the States. The execution of the laws is the only power intended to be confided to the court; and this will furnish ample scope for the exercise of discretion. If the judges were content to confine their decisions to cases affecting property and punishing crimes according to the laws, few would complain of their responsibility. If bad laws are enacted the people will correct the evil; and if, by an incorrect adjudication or misconstruction of law, individual injury should be sustained, yet the fundamental principles of our Government would not be endangered. On this principle alone can this kind of independence of the judges be tolerated with safety in a free Government. The members of the Legislative department of our Government are directly responsible to the people and to the States—which responsibility is carefully preserved upon the principle that the trustee may possibly abuse his trust; and, to remedy the evil, the people have wisely reserved the power in their own hands. When the sedition law was enacted, this remedy was applied. The President of the United States, the Governors of States, and the members of their Legislatures, all hold their offices for limited terms, that they may feel their responsibility to the people, from whom their power is derived, and for whose benefit it is exercised. Why are they not all elected for life, or during good behaviour? The reason is obvious. Because they exercise political power, which may be abused. By corruption of motive, or by the indulgence of sentiments unfriendly to liberty, they may betray the trust reposed in them; and their amenability to their sovereigns, the people, is the only sure safeguard of the rights of man. It then follows, inevitably, that the judiciary should be confined to the decision upon the laws, or that the judges should feel the same responsibility; and, if this is not done, some tribunal

should be established, responsible to the people, to correct their aberrations.

It may be denied by some that the judiciary exercises legislative or judicial power. If a judge can repeal a law of Congress, by declaring it unconstitutional, is not this the exercise of political power? If he can declare the laws of a State unconstitutional and void, and, in one moment, subvert the deliberate policy of that State for twenty-four years, as in Kentucky, affecting its whole landed property, even to the mutilation of the tenure upon which it is held, and on which every paternal inheritance is founded; is not this the exercise of political power? All this they have done, and no earthly power can investigate or revoke their decisions. If this is not the exercise of political power, I would be gratified to learn the definition of the term, as contradistinguished from judicial power. If the exercise of such tremendous powers be legitimate, their acts, like those of all other trustees of power, should be subject to the sanction or revocation of the people; if not by a direct responsibility, yet by an appeal to a tribunal that is responsible. If, on the contrary, this exercise of power is an act of usurpation, the case is yet more alarming; for the judges hold their offices during good behaviour, and bad opinion is not bad behaviour, and the opinion of the court is a law, and above all other law. A judge can be removed by impeachment for treason and other high crimes and misdemeanors; and, in case of impeachment by the other House, two-thirds of this body must concur to effect his removal. The difficulty of removing a judge in this way is such that it will seldom be attempted; and experience tells us it will more rarely succeed.

The passions and propensities of human nature, with all their imperfections, are alike common to every rank and condition; and to prevent their ill-effects in a little number, where any particular excitement is more likely to become general than with a large body, responsibility is necessary, or competency in some other body to reverse their destinies. Judges, like other men, have their political views. One may be friendly to consolidation; another may err on the opposite extreme, and a third may prefer that happy mediocrity, which is always safe, and generally salutary. When these are associated upon the bench, and each under the influence of his own partiality, there will inevitably be as different conclusions among them where State sovereignty is involved, or the extent of Federal jurisdiction is called in question, as if they were members of a legislative body. Why then should they be considered any more infallible, or their decisions any less subject to investigation and reversion? Besides the differences arising from political prepossessions, the various structures of the human mind will produce a variety of opinion. One may take an expansive view of a subject, and base his decision upon truth and justice; another may be, what is sometimes called a *technical judge*, and though of equal integrity, may conceive it his duty to stick to the bark of the case, and confine himself in all deci-

sions to the forms of judicial proceedings. This difference in the organization of the mind must necessarily result in a difference of conclusion. Courts, also, like cities and villages, or like legislative bodies, will sometimes have their leaders; and it may happen, that a single individual will be the prime cause of a decision to overturn the deliberate act of a whole State, or of the United States; yet we are admonished to receive their opinions as the ancients did the responses of the Delphic oracle; or the Jews, with more propriety, the communications from Heaven delivered by *Urim and Thummim*, to the High Priest of God's chosen people from the *sanctum sanctorum*. Other causes of difference might be multiplied to a tedious extent; but enough has been said to show that judges, who, like other men, are subject to the frailties, the passions, the partialities, and antipathies incident to human nature, should not be exempted from responsibility on account of their superior integrity, learning, and capacity; or that their decisions should be subject to revision by some competent tribunal, responsible to the people. It is believed that this is the opinion of that great and good man who penned the Declaration of Independence, and who now enjoys, in the shades of Monticello, the blessings of the principles which it contains.

It is not pretended that judges are worse than other men. I am proud to say, that no country was ever blessed with more talents or integrity upon the bench than this; but the judicial history of all civilized nations confirms the allegation, that, under the same circumstances, judges are just like other men. The theory of our judiciary may teach us that "a judge is just, a chancellor juster still;" but experience teaches us, that perfection resides no where in this world, no, not even on the bench. We have borrowed from Great Britain the idea of judicial independence. Previous to the reign of William and Mary, the judges were tenants at the will of the monarch. The King, who was "more wise, more just, more learned, more every thing," was considered the fountain of justice, and it was his prerogative to administer it to the people. In early times, he dispensed justice in his own person; but this being too laborious, he appointed his judges, and fixed their compensation. The tenure of their office and the amount of their salaries were alike dependent upon his pleasure. The creature was responsible to his creator both for existence and support; and interest and necessity conspired to induce obedience to his will. The judiciary thus became an instrument of cruelty in his hands. The legislature, the army, and the court, on many occasions, were alike the implements of royal vengeance, to sustain the divine right of kings. It was the judgment of a court that doomed the immortal Socrates to drink the hemlock. When the Roman tyrant could no longer use a hired soldiery to immolate the victims of his jealousy, he resorted to courts of law. When Henry VIII., of England, would exercise a cruel despotism under the forms of a free constitution, the army, the court, and the Parliament, were the potent engines that sustained

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

him. When Mary, his daughter, compelled the Protestants to seal their testimony at the stake, the court gave sanction to the murderous deeds. Her sister and successor, Elizabeth, created the court of high commission, and formally invested it with inquisitorial power. She also supported the arbitrary edicts of the Star Chamber. The Puritans, because obnoxious to the free exercise of the prerogatives of the Crown, were imprisoned and dispersed by process of law, and the judges were the supporters of her despotic power. When she would destroy her unfortunate kinswoman, the Queen of the Scots, the judges were instructed to condemn her, and by their sentence she came to the block. This horrid deed was covered by the cloak of judicial proceedings. When Charles I. determined to change the religion of Scotland, he made use of the court of high commission to effect the object. By the same judicial power, the advocates for the doctrines of the reformation have so often been divested of their religious privileges, and doomed to seal with their blood that religion which bore them triumphantly through the vale of death.

Those facts are not exhibited to derogate from the character of the Judiciary, but to show that no truth is more universally established in history; that no proposition can be more plainly demonstrated than this, that judges may oppress the people—that power cannot be safely confided anywhere without the guarantee of responsibility.

The occurrences to which we have adverted, transpired previous to the memorable era in the British annals under William and Mary, when the judges were commissioned by their monarch to hold their offices during good behavior, with salaries fixed by law. The system was consummated in the reign of George III., by providing that the commission of the judge should not be vacated upon the demise of the King. But, even in Great Britain, the judges are less independent than here; for, by an address of a majority of both houses of Parliament, they may be removed; here, an impeachment for malconduct by one house, sustained by two-thirds of the other, is the only thing that can effect their removal. Nor is their power so transcendent in Great Britain, as to repeal an act of Parliament by declaring it unconstitutional and void. We have improved upon their system of irresponsibility, and enlarged their powers, without any of the reasons or benefits which exist with them. Their object is to render the judges independent of the monarch, that they may protect the people from lawless acts of his despotic power. In this country, the people are the King; and the only object of rendering the judges independent of their sovereign authority, or the only benefit which can result from it, that I can conceive, is to protect the people from their own oppressors, themselves. We have given our authority to the Judiciary to control us, lest we shall enslave ourselves. We transfer the power to them, because we fear the consequence of holding it ourselves; and surrender our liberties, our lives, the disposition of our property, to the Judiciary, to escape the danger of oppressing ourselves.

Are we choosing guardians to control us, and prevent us from destroying ourselves in our fits of lunacy? A maniac may surrender his rights for the preservation of his person from the freaks of his own madness; but the American people are not mad. Experience has proven them to be the safe depositories of their own power. They have wisely reserved it to themselves, and as wisely exercised it, except in this case; and it is believed that they may now safely make their voice to be heard in the judiciary. Why should they hold the controlling power in every other department of the Government? *Vox populi, vox Dei*; but, if the voice of the people is the voice of God, what must the superior voice of a judge be? If, under a monarchical Government, an independent judiciary may stay the hand of despotic power and protect the innocent from punishment; in this nation we have no monarch, no subjects. The Government and the people are one; and we ask not the guardian care of our superiors to bind our hands so that we cannot wound ourselves.

But has this change in the judicial term, from tenancy at will to that of life, essentially changed the character of decisions in Great Britain? History records the mournful fact, that, since the reign of William and Mary, the courts of Great Britain have invariably yielded obedience to the monarch's will, in criminal prosecutions. The banishment and death of many of the most distinguished of the friends of liberty will confirm the declaration. The honored names of Muir, Gerald, Margarot, and Emmet, with many others that time cannot bury in oblivion, must remain the monument of this independence of the British judiciary, which we are so proud to imitate. In controversies betwixt individuals, the effects of the change may have been salutary; but he who has depended upon the judiciary to protect him from royal malediction, has leaned upon a broken reed.

The nature and the object of the Federal Judiciary are subjects worthy of investigation. The salary of the judge may be increased, but cannot be diminished; and his term of office is perpetual. He may receive a reward for pleasing the Legislature, but he can suffer no removal or abatement of compensation for displeasing them. Is this independence designed to give the court power to arrest the Executive in a career of usurpation? Certainly not; for the people have reserved this power to themselves. Nor is it to prescribe bounds to the legislative will; for every legislator is held responsible to his constituents. Both the President and the members of Congress are dependent on the will of the people; and the people have made them feel their power, when the judiciary were giving sanction to unconstitutional measures. It was never intended by this irresponsibility to give the Federal courts power to limit the prerogatives of State Legislatures, because they are subject to the same sovereign will of the people, who could not have designed to clothe a small number of select judges, however honest or enlightened, with the power to control that sovereignty which it was their pleasure to vest in their State authorities, where they could have the means of regulating it

at their own pleasure, without danger of anarchy or despotism. Such control, vested in an independent magistracy, would be entirely hostile to every principle of self-government; and the people do not fear themselves. All power rests in them, and they are responsible to no earthly tribunal for its exercise. They never intended to transfer it to those who might abuse it with impunity. They deem it safer where nature and nature's God have placed it—in themselves; and they cannot recognise a principle so obnoxious to free men, as that which gives it to others because they themselves are unworthy to hold it.

The real object of an independent judiciary, in this country must have been to embody the best experience in legal knowledge, and produce uniformity of decision in legal questions relative to property and crimes. The science of politics is still in its infancy; and its perfection depends on principles which the progress of republican government must yet develop; but the science of jurisprudence is more established, and composed of principles which never change. The one is mutable, the other immutable. There is, therefore, not so great necessity for the same kind of responsibility in the judiciary, if their powers are confined to the proper object of their office—that of defining questions of law; but when they transcend those limits and bring to their bar every other department, both of the Federal Government and the States, it becomes necessary to ordain some tribunal that may guard against an abuse of their power. They assume the right of deciding upon the constitutionality of the laws of the Union and of the States, and of setting them aside at pleasure. Some of the learned in law have acquiesced in this assumption of power; but the great body of the people cannot approve it. If the Constitution had provided that the judges should form a council of revision to decide upon the constitutionality of the laws of Congress, and even of the several States; and that no law should be binding without their sanction to its constitutionality, and that these judges should hold their office during good behavior, without an authority in the people to remove them or revise their decisions, I venture the assertion, that the Constitution would have been rejected by every State in the Union. If they can declare a bad law unconstitutional, they may also declare a good law void upon the same principle. If the Legislature shall pass a bad law, or refuse to pass a good law, the people will elect others in their place to remedy the evil; but the judges are not accountable to the people for their opinions. A legislative body may be changed at the pleasure of the people; but, over the court, the people hold no right of change, no power of coercion. From what source is the power which they exercise derived? From the Constitution? No; that is as silent as death upon the subject; and it is doubtful whether one man of a thousand in the nation would vote so to amend the Constitution as to confer this power. Is it in the theory of our Government? No; it is in direct hostility to the theory of our Government.

The Constitution of the United States, the laws

of the United States made in pursuance thereof, and treaties made under the authority of the United States, shall be the supreme law of the land; and the judges of each State shall be bound thereby, any thing in the laws or constitution of any State to the contrary notwithstanding. The Senators and Representatives in Congress, the members of the several State Legislatures, and all Executive and Judicial officers, both of the United States and the State, shall be bound, by oath, or affirmation, to support the Constitution. Judges, in common with other officers, being bound by oath, a duty is said to be created in them to decide upon the constitutionality of the laws of Congress, State laws, and State constitutions; and when, in their opinion, repugnant to the Federal Constitution, to declare them null and void. Would it not be equally the duty of Congress to declare the opinion of the Federal judiciary null and void, in every case where a majority of Congress might deem it repugnant to the Constitution? For instance: the Legislature, after full discussion upon the constitutionality of the measure, shall pass a law involving the best interest of the country in peace or in war. The court shall express a different opinion; and, upon every question arising under it, act in conformity to their own opinion, that the law is unconstitutional and void. Forty-eight Senators, one hundred and eighty-eight Representatives, and the President of the United States, all sworn to maintain the Constitution, have concurred in the sentiment that the measure is strictly conformable to it. Seven judges, irresponsible to any earthly tribunal for their decisions, revise the measure, declare it unconstitutional, and effectually destroy its operation. Whose opinion shall prevail? that of the legislators and President, or that of the court? The court must admit that wise and good men may conscientiously differ in opinion upon such a decision, or their own revision will fix upon every other department of the Government the conviction of perjury; and, if any honest difference of opinion may exist, I would ask, which has the right to overrule the other? If Congress were as scrupulously tenacious of their own powers, they would decree, and would deem it their solemn duty to decree, that such a decision of the court is unconstitutional and void. In that case, who must yield? and where would the confusion end? But the principal danger arises from a collision of the Federal judiciary with the State sovereignties. The judges have exercised some caution in relation to acts of Congress. They have generally acted upon the laws as they received them, leaving it with the members to account to their constituents for their measures. Nor have they had any temptations to do otherwise. The support of federal authority must, from the very nature of their situation, be a point for them to maintain rather than abandon. The Supreme Court has even decided that Congress is sole judge of the measures necessary to carry into effect the specific powers delegated by the Constitution. Had the same delicacy been observed by that tribunal when State laws have been the subject of construction, it is probable the examination

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

of judicial encroachment upon their sovereignties might never have been commenced. But a comparison of the cases will show a disposition widely different in the revival of State laws, which proves the strong bias of the Federal judiciary in support of federal power. A bias equally strong may probably exist on the other side in the State tribunals; and, in case of disagreement, which tribunal shall prevail? So far as my observation extends, the superior courts of the States would not be disgraced by a comparison with the Supreme Court of the United States, in capacity, integrity, and legal acquirements. It, therefore, appears to me that justice requires an intermediate tribunal to decide between them. I know of no clause in the Federal Constitution that gives the power to the Judiciary of declaring the laws and constitution of a State repugnant to the Constitution of the United States, and, therefore, null and void. No express grant, nor fair construction, contains it; and, I presume, every gentleman, in and out of Congress, will agree with me, that the States never designed so to impair their sovereignty as to delegate this power to the Federal judiciary. But they have assumed it, and, to counteract the evils which must result from this assumption, a responsible tribunal of appeal should be provided.

The short though splendid history of this Government, furnishes nothing that can induce us to look with a very favorable eye to the Federal judiciary as a safe depository of our liberties. When a law was enacted in violation of a vital principle of the Constitution, that which was designed to secure the freedom of speech and of the press, the victims of its operation looked in vain to the judges to arrest the progress of usurpation. If this power could ever be exercised to any good purpose, it would be, on such occasions, to declare the law unconstitutional which aims a deadly blow at the vital principles of freedom; but, so far as the transactions of that day are detailed in our public records, it appears that the judiciary was a willing instrument of Federal usurpation. That law was executed in all the rigor of the spirit which dictated it. The turbulence of faction found no moderation there; and the people found relief only in their own power. The exercise of their elective franchise removed the evil, and this is their only safe dependence.

Let us now look at the conduct of the States, and the cases in which the Supreme Court has declared their laws unconstitutional, though the cause had been sustained by their own tribunals. The Constitution delegates to the General Government certain specified powers; all other powers are retained. If one instance has occurred in which any State has shown a disposition to weaken the bands of the Union, let it be proclaimed in Gath, let it be proclaimed in the streets of Askelon. Congress, shall have power to lay and collect taxes, duties on imports, tonnage, and excises. Has any State ever opposed the exercise of this power, or denied its existence? No, not in one solitary instance. But in the case of the United States' Bank, *McCulloch vs. Maryland*, the Federal Judiciary has decided that the States have not the

power of taxing this bank, or such part of its capital as is employed within those States, though it is acknowledged that the power of taxation, except in cases specified in the Constitution, is concurrent with both governments. The Constitution limits the exercise of this power to the General Government. No duty shall be laid on articles exported from any State—no capitation or other direct tax shall be laid, unless apportioned among the States according to the census taken under the Constitution—all duties and excises shall be uniform throughout the United States. The Constitution also limits the power of taxation to the States. No State shall lay duties on exports, imports, or tonnage. Congress has pursued its course, under these limitations, without any molestation from the State judiciaries; but the Federal Judiciary has imposed an additional restriction upon the States, unknown in the Constitution, that the States shall not tax the stock of a bank chartered by Congress, and this decree must be received as a new clause of restriction added to the Constitution of the United States by an irresponsible judiciary. Congress shall have power to borrow money; to regulate commerce; to establish a uniform rule of naturalization, and a uniform system of bankruptcy; to coin money; to determine the standard of weights and measures; to punish counterfeits of the evidences of the public debt and current coin of the United States; to establish post offices and post roads; to constitute tribunals inferior to the Supreme Court of the United States; to define and punish piracies and felonies committed upon the high seas, and offences against the laws of nations; to declare war; grant letters of marque and reprisals; to raise and support armies; to provide and maintain a navy; to provide for calling out the militia to suppress insurrection, repel invasion, and execute the laws of the Union.

Now, sir, among those who may be disposed to arraign the conduct of the States, or to accuse them of being turbulent and refractory, I challenge them to point out one case in which any State in the Union has denied to Congress the right of exercising these powers, or a single instance in which any of these powers have been usurped by a State. It has been the opinion of some of the States that these powers have been abused, and, in some instances, that they have been transcended by unwarrantable construction or implication; but in no case has a State resorted to any other means of redress than those pointed out in the Constitution.

There has never been an opposition of any kind, by a State, to the exercise, by the General Government, of the powers expressly delegated, except in the late war, when Massachusetts refused to place the militia of that State under the command of officers designated by the President of the United States. In that case the court did not interfere; nor did Congress deem it politic to take any measure in relation to the subject. The sources of difficulty in these conflicts lie, almost exclusively, on the other side.

The Constitution contains limitations of power

upon the States, and the Judiciary has pronounced them trespassers upon those limitations, by declaring their laws null, as unworthy of regard. What is the nature of these limitations? No State shall enter into a treaty, alliance, or confederation, grant letters of marque and reprisal, coin money, make any thing but gold and silver a legal tender, pass any bill of attainder, *ex post facto* law, keep troops or ships of war in time of peace, or engage in war. Let me now ask, in what respect has any State violated these prohibitions? Suppose any State should enter into a treaty with a foreign Power, grant letters of marque, coin money, raise an army, build a navy, or engage in war, contrary to these prohibitions. Could the court interfere? Is this the omnipotent power to which armies and navies would yield, and by whose almighty decree discordant elements should be made to harmonize? No, sir; its decrees would be impotent. This is not the guardian power that can save us when the bonds of union shall be broken, and that friendship which now unites us shall lose its charms. The subject would not be tangible to the Judiciary. Some mightier power must be exerted, which Congress alone could prescribe, and the arm of the Executive alone could wield. The Constitution has not pointed out the course to be pursued in such an event, and for this obvious reason—the Union was formed upon confidence, upon integrity of principle, upon the sentiment of self-preservation; and it rests upon the honor and the interest of the States to maintain it. The limitations upon State powers were pointed out as a rule on which they engaged, upon that honor, to act; and, because they are themselves the proper judges of their duty in relation to these prohibitions, it was not necessary that any Constitutional remedy should be provided in anticipation of their violation. They have a common interest in maintaining them; and, if they are violated by any State government, the people of that State, who are the common source of power to both, and have a common object to gain in the support of both Governments, will correct the evil. If this should be an ineffectual guarantee; if neither their interest, nor their honor, nor their pride of character in the estimation of all the world, would restrain them, they would yet be responsible to all the other States, and subject to such proceedings as the wisdom and policy of Congress should dictate; but the Judiciary would be idle spectators, without the power of interference.

No State shall emit bills of credit. This prohibition has not yet produced collision; but it is fairly to be presumed, from the principles established by other acts of adjudication, that, if the measures of certain States relative to banks were brought before the Supreme Court of the United States, they would be declared unconstitutional and void. Nor would it be any matter of surprise should the Supreme Judiciary yet, by such a decision, obtain control over the policy of a whole community, relative to a circulating medium for any special and necessary purposes, though it might not be pretended that such currency was made a legal tender. Kentucky has incorporated a bank

for necessary purposes. The crisis of the country demanded it, and the people have sanctioned it with a unanimity almost unparalleled. If the constitutionality of this subject were brought before the Federal Judiciary, I have little doubt that the law would be declared null and void; and the State, by such a decision, of persons neither interested in her policy, nor responsible to her citizens, deprived of the power of relief in these times of overwhelming difficulty.

In Great Britain, the King can do no wrong. Here, I suppose, the Court must be King, and the States must submit to the doctrine that the judges can do no wrong. But, whether the States are right or wrong, the judges have no right to control their sovereignty; and a Government where this principle exists in the latitude contended for, is not worth maintaining. The fact is, that the courts were never organized for this purpose, to control the States and prescribe the limits of their powers.

No State shall pass any law impairing the obligation of a contract. This is the clause which has furnished the pretext for the Federal Judiciary to declare State laws unconstitutional. Like that clause which stipulates that no State shall pass an *ex post facto* law, it was not intended to give the Federal Judiciary authority over State laws, and between a State and its citizens. In both cases the Constitution recognises a principle of morality, founded on justice and religion. The States have pledged themselves, in the Federal Constitution, not to pass an *ex post facto* law, nor a law violating the obligation of a contract. Does this clause enlarge the powers of the Federal Judiciary? Certainly not, any more than that which provides that a State shall not go to war. Each State is the judge of its own honor and the keeper of its own conscience, and in both cases the court is alike incompetent to correct the evil. If it belongs to any branch of the General Government, it is certainly to any other rather than the court; but, in my opinion, it is a point to be settled betwixt the Legislature and the people of such a State. Suppose a State should pass a law to punish as a crime an act which was lawful when it transpired. If the State Judiciary should sustain it, the victim must suffer; for the Federal Judiciary could not interfere. The remedy is with the people of the State, and not with the General Government. But, according to the construction which the federal courts have assumed, they might rescue the criminal from the sentence of the law, and bring him before the Supreme Court of the United States; and thus a pretext would be furnished for usurping jurisdiction in all criminal as well as civil cases arising under that prohibition. If the court has jurisdiction in one case, it has in both; but the fact is, the jurisdiction is legitimate in neither. The doctrine of control over State authorities arises from a supposition of abuse of power; but in what case has any State manifested more ambition, more love of power, more domination, than the General Government? In what respect, and for what particular act, is the General Government entitled to more confidence than

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

the States? The powers of Congress are limited by the Constitution, and, if they transcend their powers, shall the State judiciaries interfere? They may, upon the same principle that the Federal Judiciary may interfere if a State shall transgress; but no State has been so forward in the exercise of power. They have left it where the Constitution leaves it, and where the federal courts ought to leave it—with the people. If an umpire can be appointed to settle differences that may arise upon these points, the evil will be arrested, but, if not, the independence of State Governments is lost.

The States are entitled to confidence, and it is reposed in them by every branch of the General Government, except the judiciary. Here, and here alone, do they meet the opposition which is due only to transgressors. The Constitution leaves with the States the power of fixing the time and place of holding elections for Representatives in Congress, till the General Government shall deem it expedient to interfere. The election of Senators is confided to the States, without power in the General Government to prescribe any limitations. The State Legislatures have heretofore regulated the manner of choosing Electors for President and Vice President of the United States. All this shows that the whole system is founded on confidence, and that this confidence is still unimpaired in the mind of Congress; and in no instance has it been betrayed. Even if a State shall be unmindful of her duty in this respect, the judiciary can never bring her to a sense of propriety.

The Union is the idol of the American people. It is regarded by all as the bulwark of safety; sacred as the ark of the covenant; and their indignant frowns would drive into obscurity the man who would attempt to weaken the bond. In advertent to particular instances in which the State authorities have been set at defiance, the case of New Hampshire shall first be noted.

In 1759, the King of England granted to Dartmouth College a charter of incorporation, without limitation of time. Education was the object; and New Hampshire was then a British colony. After the Revolution, when New Hampshire had become an independent State the Legislature, by a donation of land to this College, recognised it as a corporate body. Since the adoption of the Federal Constitution, the Legislature modified the charter, without the consent of the corporation, and the supreme court of that State sustained the act of the Legislature. The cause was then taken before the Supreme Court of the United States, and the act of the State of New Hampshire was declared to be unconstitutional and void, on the ground that the charter of the King of England to the trustees was a contract within the meaning of that clause of the Federal Constitution which provides that no State shall pass a law impairing the obligation of a contract, and that the modification of the charter was a violation of this clause. By this decision the principal literary institution in New Hampshire is placed beyond the control of the Legislature of that State; and an act of the British King cannot be changed by the State that

has become independent of the edicts of that monarch. I will here leave the free sons of the North to vindicate their own conduct in pretending to be so independent as to presume to touch the consecrated act of their former sovereign; and proceed to the great and enterprising State of New York.

It is certainly correct in the judiciary to show no respect to particular States, in the exercise of this high prerogative of controlling their destinies; and in the case which I am about to notice, we have a striking instance of their impartiality. I allude to that in which the Supreme Court set aside the bankrupt law of the State of New York, on the ground that it violated contracts. The court admitted the right of a State to pass a bankrupt law, and that such a law could not be controlled but by an act of Congress contravening its execution; but that it must contain no provision impairing the obligation of a contract. The court then delivers this opinion, which must be an omnipotent and immutable decree; that any such act of a State, which will release from the contract the future acquisitions of a bankrupt, is a violation of the obligation of a contract, and therefore unconstitutional; that, as the bankrupt law of the State of New York contains such a provision, it is unconstitutional and void. By this decision, it appears the State has a Constitutional right to pass a bankrupt law, provided the State shall never exercise that power; but, if the power is exercised, the right is forfeited and the law is void; for the very essence of a bankrupt law is, that the bankrupt, on making a faithful surrender of his property, shall be released forever, both in person and in his future gains. To make this decision the more imposing, the court have also settled this point; that it is immaterial whether the contract in question was executed before or subsequent to the passage of such law—whether prospective or retrospective; in either case, the provision is unconstitutional and void. I presume the Supreme Court could scarcely have considered the extent to which this decision must inevitably lead. They acknowledge the right of a State to pass a bankrupt law—they deny the right of a State to exonerate from the former claims of his creditor, the property which the bankrupt may acquire after his conforming to the requisitions of the bankrupt law. If the decision is correct this exoneration does not enter into the essence of a bankrupt law. The consequence then is, that a bankrupt law which Congress may pass, containing this provision, will also be unconstitutional, for Congress has no express power to impair the obligation of contracts; and none even dreaming of a bankrupt law without this provision. A State may pass a bankrupt law, and Congress may pass a bankrupt law—a State shall not violate the obligation of a contract, and Congress has no power to violate the obligation of a contract. But the Federal Court has decided that a law to secure the bankrupt in the enjoyment of his future acquisitions of wealth, is constitutional; therefore a bankrupt law, though passed by Congress, containing the common and most important provisions of bankruptcy, must be unconstitutional, a violation of contract

and of no effect. The right of passing a bankrupt law carries in it the right of exonerating the honest and unfortunate bankrupt, in every way, from future prosecutions on account of past transactions. It is a subject which addresses itself to the wisdom and discretion of the Legislature, when, and upon what terms the principle shall be established; and, like other acts of sovereignty involving the deepest interests of the community, it will always be exercised with judgment and caution. It is the practice of many, if not all the States, to exempt, at all times, some part of the property of a debtor from execution; and I have not heard that the right was ever called in question; such as necessary parts of household furniture, the tools of a mechanic, and the farmer's implements of husbandry. But, if it is a violation of contract to limit the control over a debtor's property for the payment of debts, then this practice is unconstitutional. For the same reason the Virginia system, which exempts from sale landed estates for debt, is unconstitutional; nor can it be important whether the system existed previous or subsequent to the contract, according to the doctrine established by this decision. But it is the general opinion that the Supreme Court would give full operation to these provisions, if they should be established by a law of Congress, and, in case of a bankrupt law, release the future gains of the bankrupt. Many petitions are before us for the passage of a bankrupt law; and thousands of unfortunate debtors are waiting, with great anxiety, for the establishment of a general system that will release their future earnings from the claims of their creditors, on the surrender of all their present living. How disappointed will they be if you give them a uniform system, but in it extend not one solitary advantage beyond what they now enjoy! One misfortune must plunge the man of business into ruin, and no earthly power can so extricate him, as that he can save his future earnings from the merciless grasp of his creditors, to supply the calls of nature for his dependent family. But it is the State sovereignty that is a subject of judicial control; let Congress adopt the same measures, and they will be Federal—the case will be entirely altered.

I will now come to the smaller State of New Jersey, though not the less entitled to high consideration and respect. If patriotic devotion to the national welfare in peace and in war—if generous sacrifices to the cause of independence constitute a claim of merit, no State in the Union is entitled to higher marks of honor than New Jersey. But let us notice the admonition which the Federal Judiciary has given this State, to retrace the steps which she has ventured to take before consulting them. In 1759, while a British colony, this State granted certain lands to the Delaware Indians, to hold in perpetuity, without being subject to taxation, but with an injunction that these lands should never be sold or leased by the Indians. In 1801, the Legislature of New Jersey passed an act authorizing these lands to be sold, but without a clause expressly repealing that part of the act of 1759, which exempted them from taxation. In 1804, that clause was repealed, and the lands afterwards taxed

in common with other property in that State. The proprietors refused to pay the tax, and suit was brought against them, in which both the inferior and superior courts of the State decided in favor of the legality of the tax. The case was then carried into the Supreme Court of the United States; and there it was decreed, in opposition to both the legislative and judicial authority of the State of New Jersey, that the law was in violation of a contract implied in the original grant to those Indians, therefore unconstitutional and void, and those lands forever free from taxation. Now, sir, what can be more dangerous to the existence of liberty, than power lodged in a body, in no way amenable to the State for its exercise, which may set at defiance the whole constituted authority of that State, and even subvert her system of taxation upon her own domains? Was it for this that Jersey bled at every pore to resist the authority of taxation without representation—that she might submit to the same deprivation at home without the power of repairing an injury or of arresting its progress? And such is indeed her forlorn condition, and that of every State in the Union, if the Federal Judiciary may prohibit them from taxing one part of their domain, and thus impose upon them the necessity of doubling the burden upon other parts to make good her revenue. Such power, vested in an independent, irresponsible tribunal, may eventually swallow up the States, and leave their governments but a shadow, unless some other tribunal shall be established, amenable to the States or to the people, with power to overrule their decisions when erroneous. New Jersey is worthy of higher regard than to lie at the mercy of an irresponsible judiciary. I am proud to acknowledge the respect which I feel for her, on account of her disinterested patriotism, conspicuous on all occasions: and especially for the part which she acted during the Revolutionary struggle. The monuments of her glory in resisting the foes of liberty greet the eyes of the traveller with gratitude and delight; while the names of Princeton, Trenton, and Monmouth, associate with these sentiments of veneration for the character of Jersey. It is very evident that the State granted those lands as a personal benefit to the Indians, and exempted them from taxation upon the good old principle of the Revolution—a principle ever dear to Americans—that as the Indians were not permitted to participate in the government of the State, they ought not to pay taxes for the support of that government; but when the lands were afterwards sold to those who were entitled to a representation, it was correct that they should contribute their proportion to the expenses of the State. But the Supreme Court has overruled the decision of the State, and established the principle, that there may be representation without the right of taxation. The conduct of Jersey, in my mind, needs no apology; but, if necessary, I leave it with the learned members from that State to vindicate her from the charge of covenant-breaking which this decision fixes upon her.

The next in order that presents itself, is the respectable State of Pennsylvania, with whom the

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

idea originated, of constituting this body a tribunal to decide upon controversies, when that serious conflict existed between the two Governments, in what is commonly called the *Olmstead case*. Her conduct was firm, but temperate. Congress must not mistake the motive that dictated the course which she took. She yielded, not because she was convinced, or alarmed; but because she was unwilling to use the militia which was ordered out, to shed the blood of her own children. It was the love of order. Pennsylvania is like the rock in the midst of the tempest—she is not to be shaken—she is slow in her anger, but mighty in her wrath—her blood runs slowly, unless aroused by a sense of injury, or by a serious attack upon the first principles of self-government. If such a state of things should ever exist; if Pennsylvania were assailed by foreign aggressions, or domestic usurpations, you would find her like the angry lion; and it would be as vain to attempt to move her from her ground by force, as was the command of great Canute, the Danish monarch of England, to compel the waves of the ocean to stand still, and not encroach upon his majesty. Pennsylvania, as to the Union, occupies a central position, and serves as a ballast to keep all parts steady. Among her people you see the gallant Irishman and his descendant, the silent and observing Quaker, the industrious and solid German, who, mixed together, constitute a population who know how to estimate and defend their rights. The particular merits of the case alluded to are too well known to need repetition; but to the magnanimity of the State we may ascribe its peaceful conclusion.

Let us next come to Maryland, and notice the case of *McCulloch*. In relation to this case, I shall be happy to hear, in what way this State shall be justified by her distinguished representative, who has had the opportunity of viewing distinctly the various grounds taken by the Federal Judiciary in the construction of its own Constitutional powers. It is the case of the United States Bank, before alluded to; a case in which I deem it my privilege and my duty to dissent from the court in some of its positions. I will here observe, that I have no personal complaint against that institution, nor any motive whatever to speak harshly of it. So far as I have had any dealings with it, the conduct of that bank has been marked with an honorable liberality; and my acquaintance with its president enables me to say with confidence, that for correctness, integrity, and capacity, he is entitled to the rank which he occupies among our most distinguished citizens. But it is the principle of judicial decision that I would refer to. The court has determined that this bank has the right to locate a branch in a State without the consent of that State; that the charter of an incorporation does not involve a distinct sovereign power, but is the instrument of carrying into effect the power which originates it; that Congress might adopt such means as they shall judge proper to carry their power into effect, and that the question, what means are most suitable, whether a bank or other means, is not a subject of judicial, but political investigation; that when, for the exercise of this

power, Congress shall deem it expedient to locate a bank, or to authorize the location of any of its branches in a State, such State has not the power to impose a tax on such bank or branch, as shall be located within its jurisdiction; with this reservation, that the principle does not extend to the real estate of such bank, nor to the proprietary right of the citizens of that State. This decision, though plausible at first view, will be found highly exceptionable upon closer investigation. The right of taxation is acknowledged to be concurrent with the States and the United States, except where Constitutional restrictions are imposed; and no one pretends to say that the Constitution gives any exclusive privilege to tax banks, or contains any prohibition upon that power. If the establishment of a bank by the United States is a means of exercising sovereignty, the establishing of a bank by a State is equally so; and if a tax, levied by a State upon a branch of the United States Bank, is a violation of the sovereignty of the General Government, a tax levied by the United States upon a State bank is a violation of the State sovereignty. But, during the late war, the General Government did impose a tax upon State banks, and the act was sustained; now, when a State levies a tax upon a branch of the United States Bank within the limits of its jurisdiction, the law is declared to be unconstitutional, because it is an encroachment of sovereignty. The plain doctrine involved in this decision is, that the States are bound to respect the sovereignty of the United States, but the United States are not bound to respect the sovereignty of the States. The powers of the General Government are omnipotent, but the powers of the States are whatever the court may please to prescribe. Such is the practical effect of this decision. The General Government may tax a State bank, but a State may not tax a branch of the United States Bank within its jurisdiction; because the General Government is sovereign, and the State governments are subordinate.

Ohio and Kentucky are involved in the same predicament with Maryland. The General Government laid a tax upon the State banks of Kentucky, and the tax was paid. Kentucky, in turn, laid, not an extravagant, but a moderate, a reasonable tax upon the branches of the United States Bank in that State, and the court of appeals of the State decided that it was Constitutional. The decision was able, and the arguments on which it was founded were conclusive; but they considered it wise to acquiesce in the decision of the Supreme Court of the United States, and suffer, for the sake of harmony, this violation of their right, till they may be practically restored by Constitutional interposition. It may have been impolitic to have imposed this tax; but the right cannot be relinquished while the reciprocal right exists on the other side; and unless some remedy is provided to counteract the mischief that must arise, no one can predict where it will end.

In relation to the State of Ohio, I am not so ready to say that her proceeding was correct. It was at the instance of many of her distinguished

citizens, that the bank located branches there; and the object of the tax was evidently to drive them back, or destroy them. I contend for the right of taxation, (not of imposing penalties) a right which belongs to the essence of sovereignty, whether the stock belongs to citizens, to foreigners, or to the United States; and the character of the proprietors cannot impair the right. But, if Ohio was wrong, yet the proceedings in relation to her, were an unwarranted breach of her sovereignty, and a violation of her rights as a State. She was prosecuted, and placed into the custody of the Marshal. She was imprisoned and bound in chains by the Federal Judiciary. Her treasurer was taken by a process from the United States Court; the keys of the treasury taken from him; the doors of the strong box opened, and the money taken from the coffers. But the attitude which she assumed under these proceedings, was such as to sustain her native dignity of character, while she submitted to the constituted authority of the Union. It is not my intention to enter into a minute detail of the transactions, or to attempt a vindication of her conduct; but leave that to those who are better acquainted with the facts. The legal and Constitutional principles involved in the case, are sufficient for the present purpose. The Constitution intended to guard against the liability of a State, in certain cases, to be sued; and it appears to me, that this is one of those cases. A State can be sued only by issuing the process against its official organs, or agents; and in this way were the proceedings brought against Ohio. If we admit, that in every step the State was wrong, yet the principle is the same; for if a usurped jurisdiction may interfere when a State is wrong, the same usurpation may also prevent her from doing right: and right or wrong, a State is not amenable to the Federal Judiciary for her conduct. Ohio has evinced great ability, in contending against this dangerous principle, and in vindicating the correct and only safe doctrine on which our Union can be perpetuated.

These are some of the cases in which the laws of the States have been declared unconstitutional, and the sovereignties that ordained them prostrated by the Federal Judiciary; and we owe it more to the patriotic forbearance of the States, than to intestine commotions have not been the result, than to a conviction in the minds of those States that these proceedings were sanctioned by justice or by the spirit of the Constitution. A remedy is necessary—a tribunal, responsible to all the States, should be constituted with appellate jurisdiction, and in its decisions all will acquiesce.

In the case of *Cohen vs. Virginia*, the conduct of the Supreme Court has also been a subject of much animadversion and dissatisfaction. The most exceptionable part is the construction of their own power, which gives them jurisdiction in the case. The Constitution provides, that, in all cases in which a State is a party, the Supreme Court shall have original jurisdiction; nothing is said of appellate jurisdiction in such cases; but here, when the State was a party, the Supreme Court exercised, not original but appellate jurisdiction. It would seem, by this clause of the Constitution,

that it was never designed that a State should be brought before the Supreme Court of the United States by writ of error, especially when she had been a party to the same case in her own courts; no, not even with citizens of other States or foreigners. The 11th amendment to the Constitution provides, that the judicial power of the United States shall not be so construed as to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of a foreign State. This amendment was introduced in consequence of suits brought against Massachusetts and Georgia, soon after the formation of the General Government. Yet the Supreme Court assume not only original but appellate jurisdiction in the case of *Cohen*, under that clause of the Constitution which provides that the judicial power of the United States shall extend to all cases in law and equity arising under the Constitution, laws, and treaties of the United States. The argument runs thus: that, although they could not exercise appellate jurisdiction where a State is a party, provided the controversy arose under any other law, yet, when the controversy arises under the Constitution, laws, or treaties of the United States, they may assume appellate jurisdiction. The plain meaning is, that the jurisdiction of the Supreme Court shall be confined to cases arising under the Constitution, laws, and treaties of the United States, and that subject to the restrictions imposed in the other clause, confining the court to the exercise of original jurisdiction over States, and in the amendment relating to the suability of States; that is, in all cases thus arising they may exercise jurisdiction, but when a State is a party their jurisdiction must be original; and if commenced or prosecuted by a citizen of another State, or of a foreign State, they have no jurisdiction in the case. I have no doubt that this is the construction which ought to be given it; but the court has given a latitude of construction which absolutely enlarges their jurisdiction, so as to embrace States and every thing else, when the controversy arises under the Constitution, laws, and treaties of the United States, to the exercising of a guardian power over the States, even to the revision and repealing of their laws; and to controversies arising under State constitutions and laws, even affecting their criminal code; for the case of *Cohen* was of this last description, and the jurisdiction was also appellate. But I shall no longer dwell upon a case that has itself been the subject of a volume. [Mr. J. here concluded his remarks for this day, reserving, by the leave of the Senate, what further he had to say until another day.]

After Mr. JOHNSON concluded his remarks—

Mr. OTIS begged the indulgence of the Senate for a few minutes, before the resolution was laid by for the day. He did not rise now, he said, with an intention of taking any part in the debate generally. Though he felt not the power at this moment to do justice to the subject, yet it would not be difficult to show that, so far as the gentleman from Kentucky had proceeded in his attempt to sustain his proposition, he had failed to exhibit

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

sufficient reasons for the proposed amendment. Mr. O. thought it incumbent on every member who introduced a measure of so grave and solemn a character as an amendment to the Constitution, to show that it was justified by the abuses and inconveniences arising from the want of it, or that it was called for by some universal expression of public opinion. Neither of these reasons in favor of the measure had occurred. The Senate were told that the Supreme Court had committed acts of injustice—not intentional, indeed—but that it had erred in cases wherein the States of New York and New Hampshire were parties aggrieved; but we do not learn, said Mr. O., that either of those States were dissatisfied, or have sought redress in any mode; but, on the contrary, that they have acquiesced in the decision of the court.

But, Mr. O. said, he rose to advert only to a reference to a particular case, introduced by the gentleman from Kentucky, in support of his proposition, but which, Mr. O. said, would altogether fail as an illustration of the position taken. He had not understood the gentleman from Kentucky as denying the expediency of some tribunal to decide controversies between the United States and a single State, but as recommending a course of amicable and accommodating measures in all such cases. But the case alluded to by him to justify this course was not fortunate for any purpose of illustration. The honorable gentleman had adopted the supposition that Massachusetts, during the late war, had denied the Constitutional right of the United States Government to call forth the militia. This allusion had been made, indeed, with much delicacy, but he could not, on that account, permit the error to pass without explanation. Mr. O. denied that there had ever been any controversy between the General Government and Massachusetts as to such Constitutional power, or any disobedience, in fact, to the lawful requisition of the General Government, though such an impression was very general, and had sunk deep in the public mind. But the fact was, that the militia of Massachusetts had always been in readiness to obey the call of the General Government in the emergencies contemplated by the Constitution, when ordered into the field. Their controversy turned upon the right to take the command of them from their own officers. When the war took place, the whole militia were put in complete readiness (by order of the State, and in compliance with a requisition from the General Government) to take the field. They were promptly placed in a state to obey the orders of the General Government. In some cases they were placed under the immediate command of the United States' officers, and in all cases were ready under their own officers. Whenever the occasion should justify it, he was ready to show, from every document and record, and from uncontrollable evidence, that the troops of Massachusetts were always ready to perform the orders of the President of the United States. There was, then, no subject for the coercion of the strong arm of the Union in the State of Massachusetts. A regular army of the United States was what they wanted;

and, had an army been marched into that State to enforce the laws of the Union, according to the supposition of the gentleman from Kentucky—the question being asked, Where are your militia? the answer would have been, Here they are. All they wanted was an army with officers, and not officers without an army.

Had the honorable gentleman come with his laurels, and followed by troops, he would have found the militia of the State ready to join him, and no Constitutional controversies to settle at the point of the sword. Massachusetts had shrunk from no part of her duty in the late war—she had contributed her full proportion of men and money to carry on that war, as it would be easy to show in due time and place. He concluded the few remarks which he studiously confined to a particular point, and which he had made at that moment, as it dispensed him from undertaking to go fully into the debate, which he should not do, unless it took a wider range than he anticipated; saying that, although he was not then prepared for the institution of a tribunal for the settlement of controversies between the United States and a single State, as proposed by the honorable gentleman, yet, if he would enlarge his motion so as to enable it to take cognizance, in law and equity, of the claim of Massachusetts against the Union, it would go farther than anything he had heard to reconcile him to vote for it.

Mr. HOLMES, of Maine, did not rise, he said, to enter into the merits of this question. He admitted that when a proposition of so solemn a character as an amendment of the Constitution came before the Senate from so respectable a source, it ought to have a solemn consideration; but he rose now merely to offer an amendment to the proposition. His friend had very ably pointed out the inadequacy of the present independent judiciary, but had failed to convince him that the Senate would be a proper tribunal to create as an appellate court. He would agree, however, that the judges of the courts of the United States were too independent for the public good; the Constitution in this respect had gone too far, and experience had proved it. Experience had shown that when the States come in conflict with the Union, the judges lean to the interest of the General Government, and usurp powers which do not legitimately belong to them. While he admitted this, however, he was not willing to confer additional and anomalous powers on this Senate. He would keep in view the maxim which taught us to keep asunder the executive, the legislative, and the judicial powers of Government. He was much afraid of that thirst for power which was inherent in the human breast; and that it would be dangerous to impart this mixed and incongruous power to the Senate. The theory of our Government was, that every branch ought to be responsible to the people—not too much so, he agreed, but sufficiently to feel and be sensible of it. Many of the States had applied this principle to their judiciary, so that when a judge exercises his duties improperly, and deserves to have the public confidence withdrawn from him, there was a mode provided by which he

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

could be displaced. There was, Mr. H. knew, a mode provided by the Constitution for bringing the judges of the United States to account; but he meant to contend that the responsibility was too remote, so much so as to amount almost to none at all. There must be some intention to do wrong; some wilful malversation in office, to give ground for an impeachment; and even then they would always find a minority of one-third and more of the Senate so good natured as to say that the error charged on the impeached officer, was one of the head and not of the heart, and thus the power of impeachment amounted in fact to nothing. In was in this, Mr. H. said, that the Constitution was defective. It was proper that the President should, on the address of a majority of the two Houses, have the power of removal. Perhaps it might be better to require more than a mere majority, and to say that two-thirds should unite in the address for removal; else, in party times, the power might be made subservient to political hostility. His proposition, Mr. H. said, went to this—it would bring the judges to a proper and salutary dependence on the power from which they emanate; and when the people, by their representatives, should say that a judge ought to be removed, it would, in all probability, be for good cause, and there ought to be a power lodged in the President to carry their wishes into effect.

Mr. H. concluded by moving a substitute for the proposition, conformably to the views he had submitted.

TUESDAY, January 15.

ETHAN ALLEN BROWN, appointed a Senator by the Legislature of the State of Ohio, in place of William A. Trimble, deceased, produced his credentials, was qualified, and took his seat in the Senate.

Agreeably to notice given, Mr. JOHNSON, of Louisiana, asked and obtained leave to introduce a bill to amend the act granting the right of pre-emption to certain settlers in the State of Louisiana, and for other purposes; the bill was read, and passed to the second reading.

Mr. THOMAS gave notice that to-morrow he should ask leave to introduce a bill, supplemental to "An act to authorize the appointment of commissioners to lay out the road therein mentioned."

Mr. BARTON presented the petition of David Manchester, of Missouri, praying an extension of the provisions of the act for the relief of purchasers of public lands so as to embrace his case and afford him relief; the petition was read, and referred to the Committee of Public Lands.

Mr. NOBLE submitted the following motion for consideration:

Resolved, That the Secretary for the Department of War be directed to lay before the Senate the amount of money furnished the agent at the Bank of Vincennes, in the State of Indiana, for the purpose of paying the pensioners in the said State; and, also, to give the name of the agent, the names of the pensioners paid by the agent, and the amount paid to each, and the time when paid, the balance of the money, if

any, in the hands of the agent at the present time, and at the time the agent was dismissed, and whether the agent be liable in his individual capacity for any amount of money not faithfully applied, or the directors of the Bank of Vincennes in their corporate capacity.

Mr. DICKERSON presented a petition from the American Philosophical Society of Philadelphia, praying that books, &c., presented to the society from abroad may be received free of duty, as books are when imported by it, (which are exempted from duty by the act establishing the tariff.)

Mr. D. accompanied the petition with some explanatory remarks, and moved that it be printed, together with a statement annexed thereto, giving a view of the duties on books in the various countries of Europe.

The motion was objected to by Mr. LOWRIE, as unnecessary, and, after some conversation on the subject, between Messrs. DICKERSON, EATON, HOLMES, and LOWRIE, the motion was agreed to.

A report was received from the Secretary of the Treasury favorable to the petition of William Phillips and Gardner Greene, of Boston, which had been referred to him by the Senate; and Mr. OTIS gave notice that he should to-morrow ask leave to introduce a bill for their relief.

A report was also received from the Secretary of the Treasury, transmitting a list of the clerks, and their respective compensations, employed in the Treasury Department.

Mr. SMITH submitted the following motion for consideration:

Resolved, That the three hundred copies of the Journals of the Senate, printed under the order of the Senate of the 1st of May, 1820, be distributed in the following manner:

One copy to each of the Senators, and one copy to each of the members of the House of Representatives, five copies to be placed in the office of the Secretary of the Senate, for the use of the Senate, and the remaining copies to be deposited in the Library.

AMENDMENT TO THE CONSTITUTION.

The Senate then resumed the consideration of the proposition introduced by Mr. R. M. JOHNSON, of Kentucky, to amend the Constitution.

Mr. JOHNSON, of Kentucky, resumed the speech which he commenced yesterday, in support of his resolution.

Mr. JOHNSON said, in order to understand perfectly well the mystical influence of the clause in the Constitution of the United States, declaring that no State shall pass laws impairing the obligation of contracts, it will be necessary to devote a few moments to the examination of the defects of the articles of the Confederation, which led to the adoption of the Federal Constitution. Let us keep a vigilant lookout for the evils which sprung from the conduct of States in impairing the force of obligations. Mutual defence against common danger induced the old Congress to submit to the States, (during the Revolutionary War,) the articles of Confederation, as early as the year 1788. Many of the States acceded to the articles of Confederation—others hesitated—and it was not until

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

March, 1781, that Maryland acceded; when they were ratified by all the States, as the form of government for the United States.

Self-defence and self-preservation, a sense of duty and love of country, bound the States together, by the acts of the old Congress and the articles of Confederation as soon as adopted. When the danger was over, by a happy conclusion of the contest, and even previously, the defects of the Confederation began to unfold themselves. The old Congress turned their attention to this subject as early as February, 1781, previous to the surrender of Lord Cornwallis. At this time, a motion was made by Mr. Witherspoon, of New Jersey, the object of which was to give the old Congress the right of controlling the commercial regulations of every State, and the exclusive right of laying duties upon all imported articles, with the consent of nine States. In April, 1783, the old Congress entered into a resolution, recommending the States to vest Congress with the power to levy certain duties upon certain specified articles, to raise a revenue to discharge the debt of the Revolution, and current expenses. At the same time, a proposition was made to change the rule by which to ascertain the proportions of money to be advanced to the common Treasury by each State, from the value of landed property, which was the standard fixed by the Articles of Confederation, to that of population, which has been fixed by the present Constitution.

The power of regulating trade with foreign nations, and the power to raise a revenue by the right of levying duties on merchandise for a limited period, occupied the old Congress every session, in various shapes and modifications, always accompanied with an able recommendation to the States, by way of reviewing the ground, until it was finally recommended to the States to appoint Commissioners for the purpose of agreeing upon a system that would sustain the General Government. We discover men of great distinction laboring in this work. Mr. Jefferson, Mr. Gerry, Mr. Chase, and others, as a committee, presented a proposition to Congress, on the 30th of April, 1784, to recommend to the States to vest Congress with power to restrain commerce, except in American vessels, and to regulate it with foreign nations, under certain conditions and limitations. On the 3d of March, 1786, we find Congress employed in revising the acts of the several States, regulating commerce with each other, and with foreign States, recommending alterations in the systems, and advising the States to adopt them. In July, 1785, we find a committee, composed of Colonel Monroe, Mr. King, and others, who recommended the States to vest Congress with the power to regulate trade and commerce, and to amend the articles of Confederation in such manner as to grant that power.

Such was the extreme difficulty in obtaining an adequate grant of power to regulate commerce, or to raise a revenue for the objects of the Union, that the great and wise men of that day, in every part, were laboring in the State Legislatures to effect the wishes of Congress, by inducing them to ratify

and confirm their recommendations relative to trade, commerce, and revenue. It was on the 30th of November, 1785, therefore, that Mr. Madison brought the subject into the House of Delegates of the State of Virginia, and introduced a resolution by which seven commissioners were appointed by that State, to meet commissioners from the other States, to consider how far a uniform system in their commercial regulations might be necessary to their common interest; and to report that system to the several States for their ratification. This measure may be considered as the foundation of the Federal Constitution. Other States adopted the same measure; and on the 11th day of September, 1786, the commissioners from New York, New Jersey, Pennsylvania, Delaware, and Virginia, convened at Annapolis, in the State of Maryland, and came to the unanimous resolution to recommend a convention of delegates from all the States, to meet at Philadelphia on the second Monday in May, 1787. The old Congress recommended the same measure, and the States adopted it. In the able State paper which was draughted by the commissioners, recommending the convention, a summary view is given of the defects of the Confederation. The regulation of commerce and the raising of a revenue, were the great objects that required federal power. It is stated that no doubt other objects would require attention; but in the proceedings of the old Congress and the State Legislatures, up to the formation of the Federal Constitution, we find these great objects, and these alone, occupying attention.

I have given this minute account of the origin of our Government, to ascertain the nature of our present difficulties. It is most wonderful that this mighty evil, arising from the practice of the States, in passing laws impairing the obligation of contracts, was never thought of, nor mentioned in any public document on record in the archives of this country, as one of the causes why the articles of Confederation required amendment. No, sir, neither directly nor indirectly; yet, in this our day, it would appear that this evil, impairing the obligation of contracts was the primary motive for vesting the General Government with strong national powers. Not satisfied with the absolute control of our trade, commerce, and revenue, the States must be held to their good behaviour, and give bond that they will not impair the obligation of contracts; and the execution of this trust is left to the Federal Judiciary.

The State of Kentucky has abolished imprisonment for debt. It was an act of the last session of their Legislature—a body of men who would do honor to any age or any nation. This very act was of a character to give them never-dying fame. Crime alone, in my native State, can deprive the freemen of personal liberty. The unfortunate captive is released from his confinement; and though deprived of property by the vicissitudes of fortune, he can walk abroad in the strength and confidence of freedom, and exult in the fact that he is a citizen of Kentucky. The Jews had their jubilee—every fiftieth year the jail doors were thrown open; but in Kentucky, this new epoch

of legislation has proclaimed a jubilee, not to terminate with the fiftieth year, but limited only with time itself. Yet, sir, I find the same Legislature have passed a law extending the prison bounds to the limits of the county, under a belief that the Federal Judiciary will declare this law, abolishing imprisonment for debt, unconstitutional; as impairing the obligation of contracts.

The fund upon which executions shall operate is a regulation of a political character, and subject to the absolute control of the Legislature. That fund may be extended or contracted at the will of the State. Land may be made subject to the payment of debts, as in Kentucky, and *vice versa*, as in Virginia, it may be exempted. The body of the debtor may be made subject to the execution as in Virginia, or *vice versa*, it may be released, as in Kentucky, by the recent act to abolish imprisonment for debt; and yet, such have been the doctrines of the Federal courts, that serious apprehensions were entertained by the Legislature of that State, that this humane system would be disregarded by the Federal judges.

I hope to be indulged with a few remarks relative to the progress of this principle, which has confined the body of the debtor. In ancient and in modern times, personal liberty in free States has been well secured from violation, as one of the most sacred rights which belongs to a freeman, except in the case of the power of the creditor over the debtor. To the disgrace of every age in which such cruelty has been tolerated, the most barbarous practice has prevailed, of placing the liberty of a citizen, no matter how worthy, at the mercy of a creditor, without even *prima facie* evidence of fraud or criminal conduct. In the first stage of this tyrannical system, the creditor had the absolute power and control over the life and liberty of the debtor. He might sell him for life, as well as his wife and his children. In case of cruelty, or even assassination, no punishment was inflicted for the horrid deed. Nothing was more common than to inflict the most cruel corporal punishment; and it is no fiction to state that the right of the creditor gave him a claim upon the dead body, and to deny sepulchral rights and funeral ceremonies, until the relatives or friends of the deceased should pay the debt. This was, in fact, the case in the celebrated republic of Rome. We are informed by history that the laws of the Twelve Tables contained this degrading principle. Some few years after the abolishing of monarchy in Rome, by the expulsion of Tarquin the Proud, and while the exiled monarch was invading the Roman State to regain his power, civil commotion was so great, in consequence of the attempt on the part of the creditor to exercise his unnatural power over the liberty of the debtor, that, to save the commonwealth, the Senate had to resort to the appointment of a dictator, who had the control of all power, without any responsibility. This dangerous expedient adopted by the Romans, and which continued in case of great dangers and alarm, had its origin in this despotic and anti-republican principle of placing the freedom, the personal liberty of one citizen, at the will of an-

other. The Romans fought, and the Romans conquered. This restored public peace and tranquillity; but, like all nations who are afflicted with war, the people were not free from debt, but greatly involved. The creditors, no longer alarmed at foreign invasion, enforced with rigor their claims upon their debtors. They enslaved, imprisoned, scourged, and chained, in the character of debtors, the brave defenders of the State. The people were alarmed. They saw the lives and liberties of their fellow-citizens at the mercy of a moneyed aristocracy. During this state of things the commonwealth was invaded—the body of the people refused to arm in its defence—those who were called upon to volunteer their services, exposed their limbs galled with fetters, and torn with the stripes of their merciless and cruel creditors. These distractions again compelled the Senate to resort to the appointment of a dictator to save the country. The enemies were again repulsed; but a part of the army separated themselves, and camped three miles from Rome, in a mutinous state, on the Sacred Hill. The military oath which they had taken, alone prevented them from marching against the capital of the State. They refused to serve a country where the unfortunate was not protected in his personal independence. It was on this occasion that the tribunitial power of Rome was created. It is sufficient to astonish the human mind to think that the power of the creditor could ever produce such effects; and we should not readily believe them if we had not the uniform history of those times to establish the melancholy fact. Our surprise will not be so great if we view attentively the condition of this country after the war of the Revolution and the late war. The same rigor, on the part of the creditor, and with the same power, where a third of our population stood as debtors, would have produced as great commotion. Nations are afflicted with calamities like individuals, and, like individuals, the body politic is subject to disease. When pecuniary embarrassments arrive at their highest point—when the inordinate desire after wealth destroys the finer feelings of the soul, and infuriates the creditor in the collection of his debt against the unfortunate, no calamity can be more signal; and, while we subject the whole property of the debtor to the discharge of his debts, the calamity should be mitigated by releasing the body from the degradation of imprisonment. The spirit and love of liberty have already relaxed the rigor of this system; and, as certain as the progress of liberty, and the triumphant march of Christianity, so sure will this principle of universal emancipation of the person from pecuniary claims, prevail in all the countries of Christendom. Where the principles of liberty denied to the creditor the right to enslave his debtor, either for life or for a term of years, he was authorized to take his body by the *co. sa.*, and subject him to perpetual imprisonment. Next, the prison doors were opened, and the prison bounds were given, confined to a small space. These bounds are enlarging, and the time will come when they will extend to the bounds of the universe. Contract is founded upon confidence

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

and upon property, and property is the only fund upon which contracts can rightfully operate. Take the property, but spare the body of the debtor. This is the voice of justice, of indulgence, of forbearance, of moderation, and of that charity which breathes in a certain parable of Holy Writ. When the Lord called his servants to an account, he found one in debt ten thousand talents, and he was unable to pay. He ordered him to be sold, his wife and children, (which was according to the Roman law.) The servant fell down before his Lord, and said, Have patience with me, and I will pay thee all; then the Lord of this servant was moved with compassion, and loosed him, and forgave him the debt. This was better than a bankrupt or insolvent law to the debtor. But, as an evidence of the necessity of law to control his inordinate desire for wealth, we find that this servant debtor found one of his fellow-servants who owed him a hundred pence, and he laid hands upon him, and he took him by the throat, saying, Pay me what thou owest! and when his fellow-servant fell at his feet, and requested indulgence, he would not grant it, but cast him into prison till he should pay the debt. The signal punishment which followed this cruel conduct will be remembered—he was given up to the tormentors. This measure, to abolish imprisonment for debt, may be classed among the relief measures of our State; and, as we have seen other acts of relief declared unconstitutional, perhaps this may be so declared; and thus the power of legislation will be wrested from the hands of the States, and vested in the judiciary. When judges, honorable, intelligent, and upright, can so far forget the judicial character as to give such a desolating and anti-republican construction to their powers, it will be time for the people and their representatives to awake from the slumber into which they have fallen. No matter what respect may be due to the judicial character, I hope the people never will submit to such usurpation.

Impairing the obligation of contracts.—This subject is worthy of particular notice, as it has been a source of so much complaint against the exercise of judicial power. The Constitution of the United States contains a positive prohibition, on the part of the States, to pass *ex post facto* laws, or laws impairing the obligation of contracts. The one applies to crimes, and the other to civil matters. The exercise of this power, on the part of the States, would be a flagrant outrage upon the fundamental principles of humanity, morality, and justice; and the conduct of the States furnishes *prima facie* evidence in their favor against the charge of exercising such power. The character of a State is involved in the question, and the charge cannot be presumed, but must be conclusively demonstrated. We have a right to conclude, in the investigation of this subject, therefore, that a very plain principle of morality, inserted in the Constitution, has been obscured, and the prohibition misunderstood. The consideration of character alone would be sufficient inducement to examine into the nature of this prohibition; but it becomes a more serious duty to make this examination,

upon the ground that the construction given to this part of the Constitution of the United States, by the courts, limits, to an alarming extent, the sovereignty of the States. From judicial decisions it would appear that the States were in the habitual exercise of the practice of passing laws impairing the obligation of contracts. The States have not, however, yet been condemned for passing *ex post facto* laws; but perhaps this arises from the fact that the Federal courts have not yet assumed the jurisdiction over crimes, under this part of the Constitution which prohibits the passage of *ex post facto* laws; and it may arise from this very circumstance, that it has not been proclaimed to the world that the States have equally transgressed this limitation of power. An *ex post facto* law makes that a crime to-day which was innocently done yesterday; or increases to-day the punishment of a crime which was committed yesterday. To give this retrospective operation in the punishment of acts which were not forbidden by the law when committed, or in the increase of punishment of crimes previously perpetrated, is the essence of tyranny and barbarous cruelty. This is a plain principle, well understood, not likely to mislead, unless we begin to refine upon the subject, and enter into metaphysical disquisitions as to the essence of *ex post facto* laws. In that event, I should not be surprised if we were to find an abuse of this prohibition in every change of proceedings in criminal prosecution. The time of altering the court might be considered *ex post facto*, inasmuch as it might diminish or extend the time that the prisoner had to remain in jail previous to trial. Although the preparatory steps, in such case, have never entered into the essence of the punishment fixed for crimes, yet, with as much propriety, may the judges declare the laws regulating criminal proceedings *ex post facto*, as they have done in respect to the remedy in civil cases in collection of debts and in enforcing contracts. Of this character also are the statutes of limitation; and they have been declared to impair the obligation of contracts. Thus it is evident, that when we leave this plain and fundamental principle of morality, contained in the Constitution, as to *ex post facto* laws, and laws impairing the obligation of contracts, we are all upon the wide ocean of uncertainty, and every principle of self-government is in hazard. What is the plain import of this prohibition of the Constitution? It is this, that you shall not declare to-day that contract void, in whole or in part, which was made yesterday under the sanction of law. You can no more do this than you can punish to-day what was lawful yesterday. If a party stipulates to pay in horses, the law shall not provide that he may discharge the debt by a tender of wheat. If a party stipulates to pay one thousand dollars for a hundred acres of land, the law shall not permit him to pay only five hundred dollars and keep the land. It is evident that such laws would impair the obligation of the contract. When we confine ourselves to this obvious principle, here expressed, we shall meet with no difficulty. But, permit the judge to enter into his nice theoretical and metaphysical

disquisition of moral principles, as applicable to the systems of States, regulating the proceedings in civil cases, limitation law, and the like, and we shall meet no difficulty in finding judges who will prostrate all such measures, which the people have solemnly declared to be expedient. The fact is, that the people, by their Representatives, have the right to exercise sovereign control over the collection of debts, the enforcing of contracts, prescribing the remedies, regulating the sessions of the courts, enlarging or contracting the fund upon which executions shall operate. In a word, a sovereign State may refuse to constitute courts of justice to enforce the execution of contracts, without violating the limitation of power contained in the Constitution. In all civilized communities, courts of justice do exist, and will exist, as a matter of general policy, and a wise measure of the sovereign power of a State, and not upon that narrow principle of impairing the obligation of contracts. As an evidence of the sovereign authority of a State, who will deny the right of the supreme power of the community to suspend law process, and close the courts of justice, in case of sanguinary war for independence or existence? This principle is expressly recognised by the Constitution of the State of Kentucky. If this be not a fair exposition of the Federal Constitution in this respect, let us see if the contrary doctrine will not lead us into difficulty and absurdity, from which we cannot as easily extricate ourselves.

A contract is made in Virginia where land is not subject to the payment of debts. But suppose Virginia should pass a law making lands a fund to discharge debts, without any discrimination as to previous or subsequent contracts; would this law impair the obligation of such previous contracts? Again: a contract is executed in Virginia, and the debtor removes to Kentucky, where landed property is not shielded from sale in payment of debts; upon a rendition of a verdict against the debtor, can the creditor have his *fiery facias* against the land estate of the debtor, or must the laws of Virginia operate as to the remedy in making the money? Again; a debt is contracted in the State of Ohio, and the judgment is obtained in the courts of Kentucky; when the execution issues, must the property be sold under the laws of Kentucky, or must the property be sold for a certain portion of its value, according to the laws of Ohio? A debt is contracted within the State of New York, and the debtor is prosecuted to judgment in the State of Kentucky; does the contract carry with it the redemption law of New York, or must the *lex loci* of Kentucky govern? If the remedy be the essence of the contract, then it follows that the Virginia debtor would carry with him a shield to his landed estate; the debtor of Ohio a protection of his property to a certain portion of its value; the New York debtor would have the benefit of his redemption laws; and the Kentucky debtor would carry with him, to other States, the benefit of his replevin law, and his endorsement law. So of every other State in the Union. Yet the absurdity of such a system has never been contended for; which proves that the

remedy constitutes no part of the contract. It is strange, however, that the doctrines of the present times should lead to these conclusions. If the remedy prescribed by a State to govern controversies is a part of the contract, then the Legislature cannot change the term of holding courts. As it respects previous contracts, the terms of holding the courts cannot be increased from three to four, nor reduced from three to two, annually; and if the public good required this change in the session of the courts, it must apply to subsequent contracts, and you must have courts permanently fixed to enforce previous contracts; and such is the chaos resulting inevitably from this novel, refined doctrine, as to the limitation of sovereignty, to keep it from impairing the obligation of contracts; and these evils result from a departure from the evident meaning of the Constitution, which prohibits the passage of laws impairing the obligation of contracts. The judge may, in his discretion, draw the line of demarcation between these cases and others which he may deem a violation of the Constitution; but it is nothing more nor less than discretion, without any fixed principles of certainty to govern him. This law loses the character of certainty, a principle by which all freemen acknowledge to be governed. Upon the same construction of the Constitution, the Legislature of a State could not extend the prison bounds, by which previous contracts would be affected; and, in fine, if the remedy given by the law to enforce contracts be a part of it, then it would follow that no suit could be maintained against the delinquent party, out of the jurisdiction of the State in which the engagement was entered into; and a simple removal from one State to another would forever release the obligor.—Cases of this character might be multiplied indefinitely, to show the extreme danger in attempting to limit the right of a State to make its laws conformable to the wants, the necessities, and condition of the country. The regulation of civil proceedings, and the remedies prescribed by law, must necessarily rest with the sound discretion of the sovereign power of the society; and, although we may doubt their expediency, yet we cannot deny their validity, without a total subversion of the principles of the American Revolution.

The decision of the Supreme Court, upon the occupying claimant laws of Kentucky, prostrates the deliberate policy of that State for a period of about twenty-four years, and affects its whole landed interest. The effect is to legislate for the people; to regulate the interior policy of that community, and to establish their municipal code as to real estate. It is worthy the serious inquiries of the nation to ascertain whether Kentucky has, by any act of her own, divested herself of this essential attribute of sovereignty. If she has not, an inquiry equally solemn remains, as to the remedy for this serious encroachment upon the first principles of self-government. It is very difficult to discover, from an examination of the decision of the Supreme Court, upon what identical ground they have acted, in declaring these laws unconstitutional. The court, it would seem, has de-

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

clared the occupying claimant laws a violation of the State constitution, and therefore void.

The novelty and dangerous tendency of this doctrine would incline us to doubt whether this was the ground; yet the court say, that the compact with Virginia is made a part of the State constitution; and as these laws are violatory of the compact, they are unconstitutional. They do not, in any part of their decision, declare, or even intimate, that the compact between Virginia and Kentucky is such a compact as is recognised by the Constitution of the United States; nor is there the most distant allusion that those laws are a violation of the Federal Constitution. We are driven to the conclusion, that the Supreme Court has undertaken to decide that these laws of Kentucky are a violation of the State constitution. If this be the case, then here is another tremendous march in the assumption of power—leading most directly to consolidation, and the consequent annihilation of State supremacy within its appropriate sphere of action.

It is sufficiently alarming to yield to the Federal Judiciary the exclusive right to judge of its own powers, and those of a State, when it is supposed that such State has transcended the limitations contained in the Federal Constitution. But if it be admitted that the Federal Judiciary may declare State laws a violation of a State constitution, then indeed are the States wholly at the mercy of the General Government. Then, indeed, are the States tenants at will; and it is the exercise of forbearance if permitted to act. Then, indeed, they possess the external ensigns of independence without the reality.

The judicial history of our country furnishes a case in which, it was fondly hoped, this sacred principle was solemnly decided, that the Federal Courts could not declare State laws a violation of State constitutions; that such a question belonged exclusively to the States; that this principle was the inevitable result of the acknowledged doctrine, that a State is supreme within its own sphere of action; and that no earthly tribunal can rightfully control its acts but the people of the State or its authorized agents. These principles result from the decision of Judge Chase.

I consider the Supreme Court bound by the laws and judicial decisions of each State, when confined to their municipal regulations.

The occupying claimant laws of Kentucky were enacted upon a solemn investigation of their merits, as to expediency and constitutionality. The inferior courts and the courts of appeals of the State have as solemnly declared them Constitutional, and consistent with the provisions of the compact.

But suppose the Supreme Court has predicated this opinion upon the ground that the compact with Virginia was such as the Constitution of the United States recognised as binding between States. Let us for a moment examine this position. The Federal Constitution declares that no State shall enter into a compact with another State without the consent of Congress. To give jurisdiction to the Federal court in this case, and

on this ground, the party claiming the benefits of the Constitution must show when and where Congress has given assent to the compact. The Journals of Congress do not furnish any such consent. The act of Congress admitting the State of Kentucky into the Union, as an independent State, gives no such consent. It is a simple admission of Kentucky into the Union, with certain specified boundaries. Congress cannot give consent, verbally, to any measure. We must furnish record evidence of every act of the National Legislature. The nation is not like an individual in this respect. Every measure of Congress must have the high sanction of record evidence, and that must be deposited in the archives of the Government. In this case we have no such evidence; and we cannot infer it by implication; nor can we resort to verbal testimony to prove it. We, then, have a right to conclude that Congress left this compact exclusively to the parties, without negation or affirmation; and having thus left it, the Federal judiciary had no jurisdiction. It belonged exclusively to the State of Kentucky and its judicial decisions, and Virginia alone had a right to complain. In such an event, the mode was pointed out by which the parties were to settle the questions of violation: "That in case any complaint or dispute shall at any time arise between the commonwealth of Virginia and the said district, after it shall be an independent State, concerning the meaning or execution of the foregoing articles, the same shall be determined by six commissioners, of whom two shall be chosen by each of the parties, and the remainder by the commissioners so first appointed."

We will now examine the case more particularly, and see what grounds exist to pronounce those laws a violation of the compact. "That the proposed State shall take upon itself a just proportion of the debt of the United States, and the payment of all the certificates granted on account of the several expeditions carried on from the Kentucky district against the Indians, since the first day of January, one thousand seven hundred and eighty-five." This part of the contract ingrafts within it a great fundamental principle of moral obligation. It is a principle of common and statute law—a principle of the laws of nations—a principle of universal law, and the law of eternal justice, that the titles to real estate must be determined by the laws of the State under which they were acquired. The Supreme Court have avowed and asserted this principle; yet, strange as it may appear, in evading the plain import of this clause in the compact, and thus declaring our State laws void, they say that Virginia must have intended something more than the recognition of this great fundamental principle. This reasoning violates the rules of construction, which are as well settled as the principle which has just been stated, viz: That where a statute or any instrument of writing is worded in clear and precise language; where the meaning is evident, and leads to no absurd conclusion, such a compact needs no interpretation, nor is any admissible. But the court, in violation of this ele-

mentary rule of construction, have declared that it would be absurd to suppose that Virginia intended nothing more than the assertion of this great moral truth. They have abandoned the plain import of the words. They have eluded their force, and have penetrated the wide field of conjecture to search after their meaning; and have forced a construction which thwarts the wise, humane, and equitable policy of our State in regard to occupying claimants of land.

This dangerous practice, whenever adopted, leads to judicial usurpation of legislative power. Every compact may become an endless source of misunderstanding; and extraneous considerations must govern the discretion of the judge. Indeed, sir, the more precise the terms, the greater the danger to be apprehended; since the court will not believe that such a wise body of people as Virginians, could have only intended to assert a great fundamental principle of acknowledged justice. It might be contended, with equal fairness, that the Declaration of our Independence intended not a recognition of great fundamental principles of self-government; but that something else must have been designed. The same fallacious doctrine may be applied to the Federal and State Constitutions, including their bills of rights. They all contain, assert, and recognise, the great fundamental principles of free government. The same may be said of every treaty which has been concluded between the United States and foreign Powers. Yet, because they assert great fundamental principles of maritime law, or laws of nations, they cannot mean to recognise them; but they must have intended to recognise some extension or limitation of the principle, or some entire different thing.

It is evident, not only from the words of the compact, that nothing more was intended than a recognition of this great and acknowledged principle; but the very next clause in the compact is a confirmation of this idea. "Nor shall a neglect of cultivation or improvement of any land, within either the proposed State or this Commonwealth, belonging to non-residents, citizens of the other, subject such non-residents to forfeiture or other penalty, within the term of six years after the admission of the said State into the Federal Union."

Why was it necessary to provide that Kentucky should not declare a forfeiture of the real estate of a non-resident for a neglect of cultivation within the period of six years? If the seventh clause will prevent the regulation and judgment of the right of claimants under the occupant laws, *a fortiori*, it would have inhibited a forfeiture of real estate for want of cultivation. It is therefore evident that Virginia recognised the sovereign power of the State of Kentucky over such subjects; and nothing can restrain it but an express prohibition. It is equally evident that, if such limitation had not been expressed, the decision of the Supreme Court would have answered the same purpose, not for six years only, but for ever.

It is highly dangerous in a free country to divest the people of such power, and to permit the

courts to establish systems of policy by judicial decision. I see no difference, whether you take this power from the people and give it to your judges, who are in office for life, or grant it to a King for life. I contend that the people have the right to make laws to govern themselves. At all events, it would be unsafe to call upon irresponsible agents to govern them. The court has nothing to do with the policy of a measure; they are bound to execute the laws; and this is peculiarly their province.

It is derogatory to Virginia to suppose that she intended to impose upon Kentucky so far as to limit the exercise of her sovereign power, in such a manner as not to be able to control the internal policy of the State. If, by the compact, the laws of Virginia at the time of our separation, must govern without any modification, then, indeed, you could not increase the taxes upon landed property held under titles from Virginia. Of course you must tax the citizens unequally, and place the burden of taxation upon those holders of real estate who derive their titles from Kentucky; and thus create a privileged class in the bosom of the State. If the laws of Virginia, at the separation, must govern, then you cannot subject lands to the payment of debts, where the title is derived from Virginia. One-half of the landed property of the State would be subject to the payment of debt, because held from Kentucky; the other half would be exempt, because they held under Virginia grants. Here, again, we have another privileged order in the bosom of the State. This is an inevitable consequence from the opinion of the Supreme Court. For they say whatever law of Kentucky narrows the rights of the landholder, or whatever diminishes the interest of the landed estate, is a violation of the compact.

Now, sir, to subject land to the payment of debt, narrows the right and diminishes the interest of the landholder, as much as to say that he shall pay for valuable improvements made upon his land before he shall oust the occupant and take possession of the premises. The speculators who command the funds may go to work and purchase for a song the claims of original proprietors of land, in all cases where it has been sold under execution, and the Supreme Court must dispossess the *bona fide* purchaser under execution, and give it to the speculator. Then, sir, we shall witness confusion confounded. Then, sir, the decision of the Supreme Court will cause Kentucky to take a retrograde movement of twenty-four years; and she must commence again with the lesson she has learned from the decision of this court. This is not declamation; I wish it were; it is an awful reality.

The Supreme Court declares that the object of the occupying claimant laws is to compel the rightful owner to relinquish his land, or pay for all lasting improvements previous to notice; they therefore create a direct and permanent lien upon the land for the value of those improvements. That, to secure the rights and interests of those lands, it is essential to preserve the beneficial, proprietary interest of the rightful owner, in the same

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

State in which it was by the laws of Virginia at the time of the separation. This is the language of the Supreme Court. The system creates a lien upon the land for the payment of valuable improvements made thereon before notice. This doctrine of giving a lien upon property under certain equitable circumstances, is as ancient as the knowledge of justice, and amongst the first principles of jurisprudence. Where landed property is sold, and a bond given for the conveyance of title, and where actual possession goes with the sale, the original proprietor has a lien upon the land until the purchase money is paid. And even where a transfer of the legal title has been made, the same lien exists, in the hands of all subsequent purchasers who are apprized of the fact of the default of the party in the payment of the purchase money. This lien is not limited to real estate, but attaches also to personal property in the hands of a *bona fide* creditor, in a variety of cases. Yet, this ancient doctrine must not be extended to the *bona fide* occupants of land, for the work and labor which he has performed for the benefit of the successful claimant. No, this is unconstitutional, in the opinion of the Supreme Court.

The only plausible objections to the occupying claimant laws of Kentucky are, the time fixed at which the successful claimant shall pay for valuable improvements, and when the occupant shall be subject to rents. The fact is, that the doctrine of notice alone is involved in the real question. By the common law, or rules of chancery, the successful claimant has always been liable for the value of lasting and valuable improvements previous to notice. The time when notice should begin to operate, has been limited to the commencement of a suit, and sometimes, previously, by written notice of the adverse claim. After notice, the occupant was considered a *mala fide* possessor, subject to rents, and made improvements at his peril. This is precisely the principle of the occupying claimant laws of Kentucky. The only difference is this, that, instead of leaving it with the court to say what knowledge of the adverse claim should operate as notice to the occupant, our law of 1797 has designated and fixed that period. By this act, the commencement of a suit was the point of time when notice began to operate. The law of 1812 fixes the time of notice from the judgment of eviction. The first law has been declared void, although it would be very difficult to point out any substantial departure from the rules of Chancery which have governed the courts of Virginia. The law of 1812 changes the rule, so far as to limit notice to the judgment of eviction.

We will consider the objections urged against this law, which establishes the principle that the occupant shall be paid for all lasting and valuable improvements up to the judgment in favor of the successful claimant, and an exemption from rents until that event has taken place. If this principle has nothing to justify it, then, at least the policy of the measure may be questioned. But, I think, it will be most evident, that the peculiar condition of our State, and the peculiar system of its land laws, furnish the strongest proofs of the justice and ex-

pediency of the measure. The common law principles were not applicable to the landed property of Kentucky. In Great Britain, whence we derive the ancient doctrine of notice, they had no independent conflicting claims to real estate, derivable from the same sovereign power. Their grants are unique and identical for a certain tract. The true boundary of those grants may sometimes produce a difficulty and create a law suit. Their disputes respecting real estate, generally arise from conveyances, derivable from the same original title; and claimants frequently contend upon the rights of heirship, ancestry, &c. In these cases the same original record is a guide for all the parties who claim the estate. In this state of fact, the commencement of a suit operates as notice to the adverse claimant; and from that period, is subject to rents as a *mala fide* possessor, and is entitled to the value of lasting improvements only to that period.

This, I presume, is also the true state of fact as regards almost every State in the Union, except Kentucky; and hence the common law, or chancery rule, may apply to all such cases. In Kentucky, citizens may, and do hold different grants, of equal dignity and authority, to the same identical tract of land from the same Government. Both claimants having paid the same price for the land to the commonwealth. Virginia opened a land office, to expose to sale that district of country, now the State of Kentucky. No survey was made, laying it off into sections, &c., but each individual had an equal right, on paying the State price, to obtain his land warrant to be located when and where his judgment might direct him. When the warrant was located, a survey was the next step, and the legal title was consummated by the issue of a patent. In this way Virginia sold a much larger quantity of land than was contained within the boundary of Kentucky. Kentucky being then a wilderness, and infested with savages, it followed, as an inevitable consequence, that the claims of individuals interfered with each other—sometimes partially; and, as the claims were of unequal quantities, the larger might, and frequently did, include the smaller locations. Thus the claims of half a dozen persons covered the same tract of land with grants of equal dignity, but not of equal validity. But the misfortune was, that this validity did not depend upon record evidence alone—verbal testimony is admitted, and that scattered throughout the States of Virginia, Kentucky, &c. This extraordinary state of things might happen, that a subsequent entry and subsequent patent might succeed against a prior entry and elder patent. Sometimes the elder location and a junior patent might prevail against a junior entry, and an elder grant—and sometimes a junior entry and an elder grant might succeed against an elder location and junior patent. Where both entries are good, the elder location is paramount—where both are bad, then the elder grant prevails.

It will be discovered from this state of the case, that the occupant took possession of the land, and not as a trespasser, but as a *bona fide* proprietor; upon a title for which he had paid a fair equivalent

to the Commonwealth of Virginia, and held a grant for it. And here is the true reason why the occupant was not considered as a mala fide possessor, until a judgment of eviction was rendered against him by a competent tribunal.

The law was enacted to suppress, or rather to accelerate the termination of controversies in regard to the landed estates of the country—to encourage agriculture; to strengthen the State by population and cultivation; and to protect the bona fide occupant from injury, in providing a remedy by which he should be paid the value of all lasting improvements made upon land, of which he should unfortunately be divested. If the elder location, or the elder grant, had given the paramount title in all cases, as in other countries, then no difficulty would have existed as to fixing the time of notice at the commencement of the suit; and the occupant might have been considered as a trespasser from the service of the writ. The institution of suit would have apprized the occupant of all the facts necessary to ascertain the comparative goodness of the conflicting claims. But I have already shown that such was not the state of fact in Kentucky. On the contrary, the goodness of the location depends on the identity of the objects called for to designate the land intended. It is necessary to prove the existence of the calls in the entry at the time of the location. This identity is not sufficient; but these calls must have possessed such notoriety at the time, that a subsequent locator might have appropriated the adjacent residuum by reasonable diligence in his search after the calls of the prior entry. The greatest difficulty arose from the last requisite, as to the degree of notoriety which the objects called for should possess, to enable the subsequent locator to appropriate the adjacent residuum. The point has never been reduced to any thing like mathematical or moral certainty; but must depend, even at this day, very much upon the wisdom and discretion of the judge. These are two great principles arising out of the land laws of Virginia. Other principles, as novel and as difficult, have grown out of the same system, amounting to some hundreds, in the modification of the various rules by which the courts have been governed. It is a science new and difficult; a branch of jurisprudence unknown to any other age or nation from the earliest dawn of civilization.

This view of the subject will, I think, present many considerations in favor of the propriety and justice of this measure; and, moreover, will demonstrate the fact, that the compact was never intended to deprive the Legislature of our State from adjusting the equitable claims of the contending parties; for, in the adjustment of such claims, the right, title, or interest, in the land, is not involved. The laws of Virginia, as to right or interest in the land, have governed the case throughout; and when the dispute has been settled, then, and not till then, does the law provide for a case extrinsic from the right or interest in the land, and changes the common law principle of notice, so as to meet the peculiar condition of our landed property. This decision of

the Supreme Court is not the only cause of complaint with Kentucky. As early as 1807, the Legislature declared, that no suits involving the right to land should be commenced after the first day of January, 1816. Yet I am informed, by a letter from Kentucky, that the circuit court of the United States for the district of Kentucky has likewise declared this law a violation of the compact with Virginia, unconstitutional and void; making another inroad upon that ancient and universal principle of law, that the remedy including the statute of limitations, is no part of a contract; and that it be devolved upon the sovereign discretionary power of a State to control the remedy, without having heretofore been considered as impairing contracts. It appears to me that we have arrived at a perfectly new era in the history of jurisprudence. Yet this decision, as well as the former, is in direct hostility to the supreme court of our State.

The Federal Judiciary have declared unconstitutional and void the laws of New Hampshire, New York, Pennsylvania, Maryland, Virginia, Ohio, Kentucky, and, in the case of the Yazoo speculators, the laws of Georgia. The district courts of the United States, in the interior of the country, have recently introduced another dangerous innovation, repugnant to the general sentiments and best feelings of the mass of the population which it affects, in the assumption of admiralty and maritime jurisdiction over our own internal trade upon the rivers of the West, more than a thousand miles from tide water; a jurisdiction which, in every country and every age, has been confined to the ebbing and flowing of the tide. These last cases are quite as glaring as those which have been noticed; but time would not permit me to dwell upon them, nor, indeed, upon any considerable proportion of the cases in which the judicial arm has attached itself beyond the province of the body which sustains it. At one period, they declared the common law of England the law of the United States in their confederated capacity, and sustained the doctrine on several occasions in criminal prosecutions, by inflicting punishments under it, upon persons who had not violated any law of the country; and by this construction the extent of their jurisdiction was threatening to become boundless. But the indignation of the people who, with one voice, condemned the proceeding, began to be felt, and the doctrine is suffered to become obsolete. Where there are such strong indications of a disposition to extend their powers to the utmost stretch of Constitutional construction, and without any power, either direct or indirect, to arrest its progress, it is evident that some interposition is necessary. It is dictated by necessity. The preservation of harmony requires it. The security of our liberties demands it; and, while the sound of freedom is melodious to an American ear, I shall console myself with the assurance that some Constitutional provision will be made, if not at this time, certainly at some future day not far distant.

The amendment which I propose may not be the best that can be devised; but the necessity of

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

some remedy is obvious; and various propositions have suggested themselves to my mind, either of which might prove efficacious.

1st. To limit and define the jurisdiction of the courts.

2d. To subject the judges to removal by an address of both Houses of Congress.

3d. To vacate their commissions after a limited term of service.

4th. To vest a controlling power in the Senate of the United States, or some other body who shall be responsible to the elective franchise.

On mature deliberation, the proposition which I have submitted, appears, in my opinion, the best calculated to effect the object desired; but on this point I am not tenacious. I am content to leave the selection of the mode to the wisdom of others, without giving a detail of the reasons why I consider the Senate a tribunal to which the ultimate decision may be confided.

I have endeavored to examine, with freedom the principles of our Government, and have concealed neither my feelings nor sentiments. In animadverting upon the exercise of the judicial power of the United States I have endeavored to avoid, as far as was consistent with freedom of discussion, every expression that might convey the idea of hostility, or personal disrespect to the judges. I feel nothing of that; and if I did, an occasion like the present would not be chosen to express it. It is a duty which I owe to my country, to express my sentiments freely upon public measures, which I trust will ever be discharged; and, so far as individuals are concerned, I shall be as ready at all times to applaud as to condemn. Whatever may be the result of this investigation, I have done my duty. The perpetuation of our rights is worthy of all that vigilance which the object requires. Contrast our condition with that of all other nations, and every day's experience will confirm the sentiment, that we are God's most favored people. The wisdom of our sages, and the blood of our heroes, have confirmed to us the liberty of speech and of the press, and established the sacred rights of conscience. It is a duty which we owe to Heaven who gave them; and to posterity, whose guardian we are, to transmit these rights unimpaired. They are blessings worth more than all the blood and treasure expended in obtaining them. Our example is animating other regions; and the light of freedom here has shone to the Eastern bounds of Europe, and to the Southern climes of our own continent. The sun of liberty, after a long dark night, has emerged from the Western horizon, and is now borne upon his wings to illuminate the chambers of the East. His animating beams are again displayed on the plains of Marathon, where the modern Greeks are now emulating the deeds of their ancestors. To sanctify this continent from the pollution of despotism, our brethren of the South are moistening the garden of freedom with their blood. The horrors of war are cheerfully encountered, and every privation is endured with manly fortitude, to establish the principles for which we once braved the dangers of the field. If these blessings are worth obtain-

ing at such expense, they are worth preserving; and I trust that the same spirit which actuated the patriots of the Revolution, will ever excite to vigilance the heirs of their inheritance.

When Mr. J. had concluded—

Mr. HOLMES, of Maine, rose to offer an amendment to the resolution. He questioned the sufficiency of the reasons advanced by Mr. JOHNSON in favor of his proposition, and then proceeded to take a brief view of the present tenure by which the judges hold their office, the evils thereof, the necessity for a greater degree of responsibility in the judicial branch of the Government, &c., and concluded by offering the following amendment: To strike out all that part of the resolution which proposes to give appellate jurisdiction, in certain cases, to the Senate, and to insert the following amendment to the Constitution:

"Any judge of any court of the United States may be removed from office by the President of the United States, on the address of both Houses of Congress."

Mr. VAN BUREN submitted it to the Chair, and to the mover of the amendment, whether this motion was in order. Both questions were important, and the discussion of them, he thought, ought not to be embarrassed by mingling them thus. He thought if the discussion were to proceed, a correct result would be more easily arrived at by considering the propositions separately. They were, moreover, variant in their nature, and ought to be kept apart. One was a proposition to establish a tribunal to correct errors of judgment in the Supreme Court—the other pointed to a different object altogether—it was to regulate the tenure of office, and extend the power of impeachment for corrupt conduct to a removal of the judges by Congress. The two objects were too dissimilar to be discussed advantageously while united, and he should presume the amendment, offered by Mr. H. to the resolution, out of order.

The Chair decided (Mr. BARBOUR temporarily presiding) that the motion made by Mr. HOLMES was in order.

The further consideration of the subject was then postponed until to-morrow.

WEDNESDAY, January 16.

The PRESIDENT laid before the Senate the credentials of CÆSAR A. RODNEY, appointed a Senator by the Legislature of the State of Delaware for six years, commencing on the fourth day of March last; the credentials were read, and laid on file.

Mr. THOMAS, from the Committee on Public Lands, to whom the subject was referred, reported a bill to provide for paying to the State of Mississippi three per cent. of the net proceeds arising from the sales of public lands within the same; the bill was read, and passed to the second reading.

Mr. WALKER presented the memorial of the Mayor and Aldermen of the city of Mobile, praying the aid of the General Government, by grants of public land within the limits thereof; the memorial was read, and referred to the Committee on Public Lands.

Mr. THOMAS, from the Committee on Public Lands, reported the following bill :

A bill supplemental to an act, entitled "An Act to authorize the appointment of commissioners to lay out the road therein mentioned."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the road authorized to be laid out by the act to which this is supplemental, from Wheeling, in the State of Virginia, to the left bank of the Mississippi river, shall be laid out through Columbus, Indianapolis, and Vandalia, the Seats of Government of the States of Ohio, Indiana, and Illinois, and the said road shall be laid out commencing at Wheeling, on the shortest and best route between the places aforesaid, having a due regard to the condition and situation of the ground and water courses over which the same shall be laid out.

SEC. 2. *And be it further enacted,* That, in addition to the sum heretofore appropriated for the same objects, — dollars be, and the same are hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated.

The bill was read a first time.

Mr. HOLMES, of Maine, from the Committee on Finance, to whom was referred the petition of George Simpson, praying for compensation for his services in negotiating a loan, made a report, accompanied by a resolution that the petition of George Simpson ought not to be granted.

On motion of Mr. LLOYD, the resolutions submitted by him for making certain appropriations of the public lands to the purposes of education in the old States, were taken up; and, with the view of fixing a day certain for their discussion, were made the order of the day for Wednesday next.

Mr. VAN DYKE, from the Committee on Public Lands, to whom was referred the memorial of Daniel W. Coxe, of the city of Philadelphia, praying the confirmation of the title to a tract of land in Louisiana, granted by the Spanish Government to the Marquis de Maison Rouge, made a report, accompanied by a bill confirming the title of the Marquis de Maison Rouge; the report and bill were read, and the bill passed to the second reading.

Mr. LANMAN presented the petition of Daniel Stoddard, of Groton, Connecticut, praying a pension; which was read, and referred, together with the accompanying papers and documents, to the Committee on Pensions.

The Senate resumed the consideration of the motion of the 15th instant, for information respecting the money furnished the agent at the Bank of Vincennes, in the State of Indiana, for the purpose of paying the pensioners in the said State, and agreed thereto.

Mr. BOARDMAN presented the petition of Daniel Boardman, of New York, praying that his patents, granted under the British Government, and recorded at St. Helena, may be recorded in like manner as those in the district of St. Helena have been, and also that he may be permitted to cause a re-survey of his lands registered in his name at St. Helena; the petition was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the motion of the 15th instant, for the distribution of the three hundred copies of the Journals of the Senate, printed under the order of the Senate of the 1st of May, 1820, and agreed thereto.

The bill to amend the act granting the right of pre-emption to certain settlers in the State of Louisiana, and for other purposes, was read the second time, and referred to the Committee on Public Lands, together with the memorial of the Legislature of the State of Louisiana, in relation thereto.

AMENDMENT TO THE CONSTITUTION.

According to the order of the day, the Senate then proceeded to the consideration of the joint resolution, proposing an amendment to the Constitution, for establishing a uniform mode of electing Electors of President and Vice President of the United States, and Representatives to Congress; which, being before the Senate for discussion—

Mr. DICKERSON said, the subject had been so often and so fully discussed, here and elsewhere, and was so fully understood, he did not propose to offer a single remark in favor of his motion, but to submit it to a silent expression of the sense of the Senate.

Mr. BARBOUR, laying it down as a principle that every man proposing an amendment to the Constitution, was bound to prove a plain and palpable mischief, and to show that his proposition embraced a clear remedy for it, called on Mr. DICKERSON, especially as there were several new members in the Senate, in whose presence this question had not been discussed, to disclose the grounds on which he asked their votes in favor of his motion. For his part, Mr. B. said, he had always been opposed to this proposition, believing it to be fraught with more mischief than it promised good; and, so thinking, had heretofore expressed his opinion of it. He was not only willing but desirous to hear the gentleman from New Jersey present to the Senate his views in favor of it. When I have heard him, said Mr. B., in the language of the quakers, if the spirit move me, I also will express my views of this question.

Mr. DICKERSON said, if the spirit would not move the gentleman without his help, it would not move him at all. No new arguments, Mr. D. said, could be offered on the subject. There was, probably not a man in the Union who took any interest in the concerns of his country, whose mind was not fully made up on the subject; and, if the gentleman from Virginia had made up his mind upon it, (as Mr. D. believed he had,) he did not believe there was any occasion for now debating it.

Mr. BARBOUR said, that, in inviting his honorable friend to declare his reasons in favor of the measure, he had intended to do him a favor. He knew how much consideration he had given to the subject, and was willing to give him a fair opportunity to present his views to the House. But inasmuch as the gentleman had declined accepting the invitation, Mr. B. proceeded briefly to de-

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

liver his views of this question. He admitted, in the outset, that his opinion was made up on this subject; but no matter how decided was his opinion, nor how often he had pronounced it, he still would listen to the voice of truth and reason—his mind was open to conviction, and so, he hoped, was that of every member of the Senate. In proceeding to argue the merits of the question, he repeated the sentiment that, as regards the amendments to the Constitution, whoever presumes to lay his hand on it, must be satisfied that there does exist a positive mischief, for which, in his opinion, his amendment proposes a certain remedy. Not that he considered it profanation in any manner to touch the Constitution. Entertaining for it a rational loyalty, he should consider it an abasement of character, were he to look at that which is the work of human hands as if it were an emanation of divinity. It was the work of imperfect man. Those who framed it knew that the human mind was on the march; that a new epoch had arrived, and that improvement in the science of Government was rapidly going on. They, therefore, provided the mode by which alterations could be made in the Constitution. But, Mr. B. said, he for one would not give his vote to make any change in the Constitution, unless he felt a moral certainty that that change would be an improvement. Mr. B. congratulated the Senate on the guarantee for the security of the Constitution, derived from the general impression to this effect, which prevailed among the people, who prize too highly the good they now enjoy to suffer it to be put to the hazard of untried experiments. His first objection to the particular amendment now before the House, was, that it proposed to disturb the principle of compromise between the large and the small States, which lies at the foundation of our Government, and is to be discovered in every page of the Constitution. It behooved the Senate to look to it, that they did not break an arrangement made upon this ground, by taking away the peculiar advantage of a portion of the parties to the compact, yet leaving in existence the consideration given for it. Such, he apprehended, would be the effect of the success of this amendment. In the constitution of this House the little State of Delaware was invested with equal authority with the great State of New York—for, Mr. B. said, he would not talk of his own State—the comparison did not hold so strongly by selecting her for an example of contrast, since another star had arisen in our constellation more important than herself. What compensation, Mr. B. asked, was given to the large States for this inequality? It was to be found in the provisions respecting the election of President certainly, in which New York has a voice, as 29 to 4, greater than Delaware. In the event of non-election of President by the Electors, the election is, according to the Constitution, to devolve on the House of Representatives. How, asked he, is the question to be decided in that body? By a plurality of voices? No; each State is then placed on an equal footing. The Representatives prepare their ballots, but each State gives only one vote; and, although the State of Delaware is scarcely

visible on the map of the Union, she acquires, in that process, a weight which balances the great State of New York.

Let me ask, said Mr. B., if the tendency of the amendment be not to transfer the election of President from the Electors to the House of Representatives—and whether, in that view, its adoption be desirable? Whilst the election is confined to four and twenty States, there can be but so many persons voted for as there are States. But, he said, the probability is, that the number of members of the House of Representatives will continue to increase—he feared, indeed, its increase was as inevitable as that of the people. When that House amounted to five hundred or a thousand members, and the number of Electors was increased in correspondent measure, all to be chosen by districts, what a scene would ensue! Every village, according to the old adage, has its great man; every district in the United States believes that it contains an individual who is fit to be the President of the United States. Do you suppose, said Mr. B., from what you have already seen of our history, that we shall be ever short of candidates for the Presidency? Look, sir, at the signs of the times, and it must be admitted they are a fruitful generation, which there is no reason to fear will ever become extinct. When there were from five hundred to a thousand Electoral districts, as under the provisions of this amendment there might be, with each one its candidate for the Presidency, could it be reasonably expected that the votes of a majority of these districts would ever be united in favor of any one candidate? There would be a number of candidates, each with his circle of adherents; and the inevitable tendency of such a system must be, to throw the election into the hands of the House of Representatives. What would be the consequence of throwing the election into that body, he was not able to say. But it had been told in Gath, and published in the streets of Ascalon, what had happened when that case occurred, as it once did, in the history of our Government. Would, he said, that the dark shades of oblivion could be thrown over it, and that history had not recorded it! That wish, however, was now vain. Yes, sir, said he, it was a frightful scene: though I was then but a young man just entering into life, I remember it well. There was a state of alarm—of deep anxiety: the good men of the country every where stood on the tiptoe of expectation, looking towards the Capitol, where it was believed that the liberties of this infant Republic were in danger. The attempt was made, as the world knows, to place in the Presidential Chair a man who did not receive from the people a single vote for the office of President. There was a rumor, whether true or false, I will not be responsible, that the party who had attempted to impose on the people a President of the United States, for whom they knew a vote had not been given, intending to profit by their own wrong, had resolved to appoint a President by law. Whether true or false, such was the suspicion, and such the excitement in consequence, that thousands and tens of thousands of patriots had ready the avenging steel to

SENATE.

Amendment to the Constitution.

JANUARY, 1822.

plunge into the heart of the usurper, and of his guilty associates. Fortunately, the attempt was not made. And, if any one would deny the fact, being anxious to believe it not true, he would readily acquiesce in the assertion, as it involved a deep stain on the character of his country. We are told, indeed, that different times have arrived, when such things cannot happen. But, Mr. B. said, what has happened may happen again; and he who entertains a confidence different from this, must have gained little advantage from the lessons of history, &c. It required no spirit of prophecy to discern already specks floating on the horizon, portending future storms; and, although, owing to our peculiar form of Government, and the attachment of the people to liberty, this nation may have great duration and enjoy an extent of happiness heretofore unknown, yet, said he, we are human; we are subject to the law of nature—and it would be presumptuous to suppose that the decrees of Heaven are to be reversed in our favor. Mr. B. was against placing the election with the House of Representatives, because he believed it would diminish the chance of duration of the Government—and he was, therefore, opposed to this amendment to the Constitution, because he believed its inevitable tendency would be, by multiplying the number of districts, to throw the election into that body. Why, said Mr. B., take from the States the little weight which they now have in this Government? Why, from him that hath not, will you take that which he hath? At the time when some of the States see, or think they see, the encroachment of this Government on certain of their rights, as the Senate had it eloquently stated to them yesterday by the gentleman from Kentucky—when they believed, too, that Congress itself every now and then went to the full limit of its authority—under such circumstances, asked Mr. B., will you declare that the little privilege of directing the mode of election of Electors shall be taken from them? Besides, he said, that power already belonged to Congress, if they chose to exercise it; and what need was there for an amendment to the Constitution to do that which Congress already had the power to do? There is something dear to every one in his own peculium. The most trifling object in nature, if it be your own, interweaves itself with your affections. Leave, then, said he, to the States this little authority, which may be dear to them, but is of no real importance to you. Mr. B. then reverted to his first and most important consideration against this measure, viz: that it deranged the compromise in which the Constitution had its being. He called upon Mr. DICKERSON to establish a palpable evil requiring a remedy, and that this was the proper remedy. The *onus probandi*, he said, rested upon him. If there was any difficulty under the Constitution in its present shape, Mr. B. said it was a difficulty on paper merely, and in practice not felt at all, whilst he had shown, he thought, that practical and serious evils might grow out of the proposed change. Mr. B. concluded by saying he could not forbear this expression of his views; and he had done so in the humble hope that the few

suggestions which he had thrown out might at least afford to some members of the Senate materials for reflection.

Mr. DICKERSON, in rising to reply to Mr. BARBOUR, who, he said, appeared to have been moved by the spirit to some purpose, said that, in proposing this amendment to the Constitution, he had acted under instructions from the State which he represented, rather than from his own mere motion. He was not disposed, more than others, to meddle too freely with the Constitution of the United States; but, being instructed on this point by his constituents, he should feel it his duty to bring forward this proposition, year after year, in this House, as long as he remained a member, or until it was adopted. With regard to the Constitution, which the gentleman from Virginia appeared to consider as almost beyond the reach of human beings, that gentleman himself had, on three occasions, introduced resolutions proposing amendments to it, some of them going much further to impair that compromise of which he had spoken than the amendment which is now proposed. This proposition, Mr. D. said, did not originate in New Jersey, but, he believed, in the old State of North Carolina, which was also one of the great States; and twelve or thirteen of the States had given instructions, directing their Senators and requesting their Representatives to use their exertions to procure its adoption. What it proposed, moreover, was not new. It proposed to give validity and renewed operation to an old principle—to the course which was adopted by the States generally, and by Virginia herself, in the first election of President of the United States. That State had changed its practice only, because, under all circumstances, it was convenient, and he would add, that it was right to do so, seeing that, in the Eastern States, the Legislatures had usurped the power from the people, reserving it to themselves, or making the election by general ticket, which amounted to nearly the same thing. Other States were obliged to follow the example, by a refusal to follow which they found they would sustain an injury. Mr. D. then proceeded to examine the objection to this proposition, founded on the argument that it would tend to throw the election of President on the House of Representatives. He admitted that, if the States chose their Electors by general ticket, or by vote of the Legislatures respectively, there would, in fact, be but twenty-four Electors, each college being one, and that they could vote but for twenty-four candidates. Taking the present number of the two Houses of Congress, there would be two hundred and thirty-five Electoral districts; and he admitted that, by possibility, two hundred and thirty-five persons might be voted for as candidates for the Presidency, each having one vote. But, he said, let the idea be carried further, and suppose the proposition to succeed, which had been heretofore made, to elect the President directly by popular suffrage, and say that one-fifth of the whole population of the United States were entitled to votes—there would then be two millions of voters, and two millions of persons might be voted for.

JANUARY, 1822.

Amendment to the Constitution.

SENATE.

But, said Mr. D., legislators ought not to calculate on possibilities, but on probabilities. Under the present system States could coalesce, and individuals could intrigue; but if the election was referred to the people within their respective districts, intrigue and calculations would be set at defiance. It would exist no longer. The votes of the people would be divided between two or three leading candidates. This idea he illustrated by reference to the election of Speaker in the other House, and in some of the State Legislatures, and to the election of Senators of the United States, which had required many ballotings; while in elections of Governors of the States, made by the whole people of the States, respectively, there had been scarcely any scattering votes. All this, Mr. D. argued, proved that multiplying the Electors took away the chance of intrigue and bargaining, which occurred in bodies of more limited number. All experience, he said, was on this point against the theory of the gentleman from Virginia. Mr. C. took another view of the subject, founded on the supposition that, under the present system, three of the great States should confer respecting a Presidential candidate, and that two should agree and the third dissent, would not the dissentient State be likely to use her best exertions to throw the election into the House of Representatives? a contingency which Mr. D. should deplore as earnestly as the gentleman from Virginia. Here was a case as likely to bring the election into the House of Representatives as any which the gentleman had presented. In truth, the gentleman, instead of showing that the proposed amendment would have a tendency, in the slightest degree, to bring the election of President into the House of Representatives, had given the Senate a most frightful picture of the time when this election once devolved on that House. I, said Mr. D., remember that too. I was a young man, as well as the honorable gentleman from Virginia, but I remember that the aspect of the time was calamitous. The provision under which the difficulty of that day had arisen, Mr. D. said, had been considered the wisest part of the Constitution, the correctness of which was never doubted until the country was brought in danger by it. That provision, too, was a part of the compromise, of which the gentleman had warned the House, and was intended to give to the small States a large power. But what, he asked, did the small States do in that case? Did the small States adhere to the rights they possessed, by having the election of President thus frequently placed in their power, by being brought before the House of Representatives? If they had entertained that sort of jealousy which he was now sorry to see on the part of some of the larger States, they would have retained that power—they would not have yielded it. But they did come forward and voluntarily abandon it. The existing amendment of the Constitution was adopted; and, Mr. D. said, he was happy that it had been done. He only asked of the gentleman from Virginia that a little of that generosity might be exercised now towards the small States, which they had thus exercised to-

wards the larger ones. He allowed that the small States might be more interested in the adoption of the amendment than the larger States; but it was because the small States are more interested in the preservation of the Union. Some of the large States, he said, are empires within themselves, the State of New York, for example, and the duration of the Union is of less importance to them. The small States, on the contrary, are deeply interested in every amendment of the Constitution which goes to secure permanency to our form of Government. With respect to the proof of evil, or mischief, under the present system, although it may not have been actually experienced, every one can foresee that it may occur. The election of President, he said, ought to be uniform and contemporaneous. But what was now the fact? There was more uniformity in the choice of town officers, &c., than in that of the President of the United States—so various were the modes of election of Electors in the several States. He alluded to abuses which had been committed under the present system; but, he said, these were stories which he had told before, and he would not now repeat them. Twelve States had asked for this amendment, and three times had it passed this House by the Constitutional majority. All that was asked by it, at last, was, to submit the question to the States, and let them decide on it. By this submission of all such questions to the people of the United States, the Constitution of the United States was so guarded that it was scarcely possible any amendment could find its way through them unless it was decidedly a proper one. He hoped that this amendment would be allowed to undergo that test.

Mr. LLOYD agreed perfectly in principle with Mr. DICKERSON, that the election of Electors and Representatives to Congress should be uniform and contemporaneous among the several States; and his only objection to this resolution was, that those important points were not secured by it. The election of Electors was certainly not uniform, when a part were to be elected by the people, and a part as the Legislature should direct; nor could such elections be contemporaneous. But, with a view to make the election of Electors entirely uniform, he moved to refer the resolution to the Committee on the Judiciary, with instructions to that effect. He should, he said, with reluctance vote against a proposition, the principle of which he approved; but in its present shape he considered this amendment so objectionable that he could not vote for it.

Mr. DICKERSON said, that what he meant by a uniform mode of election was, that the same rule shall prevail in one State as does in another, and that the rule in all the States be the same. He recollected that the motion which the gentleman now made had been made by him at a former session, and that the Senate had overruled it. His only objection to the motion, however, was, that it would procrastinate a decision on this question. The proposition which had received the sanction of so many States was in the same shape as that now before the Senate. He put it to the gentle-

man whether, by the course which he proposed, he did not risk the principle for the sake of the detail, &c.

Mr. LLOYD said he felt himself obliged to persist in his motion. It had always been one of the first maxims of his political life, to place elections and power in the hands of the people. In his own State, (Maryland,) the election of Electors had always been by districts. He was not disposed to take from the people of that State, or of any State, a particle of the power which they had heretofore exercised, and was therefore opposed to placing the election of any part of the Electors, even of two for each State, at the discretion of the Legislature. He wished to establish not only uniformity of action among the States, but also an uniformity in the principles on which they were to act. It was a curious sort of uniformity to say, that the Electors shall be chosen by districts, but forty-eight of them shall be chosen by the State Legislatures. He did not know, he further said, how an arrangement of this sort would accord with the convenience of the States. The time for election of the two Electors for each State might not correspond with that fixed for the sittings of the Legislatures, &c.,—since, according to law, the election of the Electors must be made within thirty-four days of the 1st of December. This at least deserved examination and inquiry. Mr. L. dwelt for some time on the importance to the full success of the principle of this amendment, that it should be made to conform wholly to its profession of uniformity, and expressed his regret that the gentleman from New Jersey opposed his motion for recommitment, seeing that they agreed so entirely in principle on this subject.

Mr. DICKERSON suggested that there would be no difficulty in each State providing that, in each district, when voting for an Elector for the district, the people should also vote for the two Electors which are to be chosen for the whole State. In this way, the difficulty which the gentleman apprehended might be readily avoided.

Mr. HOLMES, of Maine, quoted the Constitution to show that Congress had already the power to prescribe a day for the choice of Electors, and to make the same uniform throughout the United States. As to the day for the meeting of the Electors, the Constitution was imperative, but a discretion was left with Congress as to the time for the election of Electors. He thought it would be entirely safe still to leave that matter in the hands of Congress.

Mr. ORIS, perceiving, contrary to expectation, that the minds of gentlemen were not fully made up on this subject, moved to postpone the further consideration of the subject until to-morrow, to give gentlemen time. This motion, however, he subsequently withdrew.

Mr. LOWRIE said, the debate to-day had been wholly on that part of the resolve which relates to the election of Electors of President and Vice President—and the separate provision respecting the mode of electing Representatives to Congress appeared to have been wholly overlooked. It was certain, he said, that Congress now have the power

to direct the mode of electing the latter. He did not mean to debate this subject; but he thought gentlemen ought to look a little further into that part of the subject which had not been touched upon; and with that view moved to postpone the further consideration of the subject until Monday next.

Mr. DICKERSON said he thought he could obviate the difficulties of the gentleman from Pennsylvania on this point; on other points, he knew he could not, for he understood very well what point pinched. The origin of that provision of the Constitution to which the gentleman from Pennsylvania had referred, was, the fear of a refusal on the part of some of the States, to send Representatives to Congress. But the time having passed when any such danger can be apprehended, that part of the Constitution, Mr. D. said, might be regarded as a dead letter. It is true that Congress yet had the power, but he denied that it would ever be exercised. Congress could not command the State Legislatures to district the States, and Congress could not itself have the necessary knowledge to justify its undertaking to do it. And if the States, or any of them, were to be districted, by Congress, contrary to the will of the people, they would consider it a degradation, and they would not submit to it. Large States must be divided into districts, because they cannot, without absurdity, attempt to vote a general ticket for members of Congress; and small States, he thought, ought to be required to do the same. He asked the gentleman from Pennsylvania whether it was not decidedly for the interest of the State which he represented that this amendment should be adopted, &c.? and concluded by expressing his hope that the gentleman was now satisfied on this head.

Mr. LOWRIE said he was satisfied of the propriety of his motion for postponement; for, if he understood the argument of the gentleman it cut both ways. One of Mr. L.'s objections to the proposition for districting the States for the purpose of making these elections, was, that it proposed to impose upon the Legislatures a duty which they could not be able to perform. He wished the further consideration of the resolve to be postponed for a few days, to give time to examine it.

The question was then taken on the proposed postponement; when there were for the postponement 14; against it 14.

The VICE PRESIDENT declared himself against the postponement.

Mr. CHANDLER moved to amend the resolution so as to provide that the two Electors who are to be chosen from each State (in addition to those severally to be chosen from the Congressional districts) shall be chosen at large, by each voter giving his vote for two Electors, in addition to his vote for one Elector for the district in which he lives. This amendment, Mr. C. said, would do away the objection in his mind, and, it appeared, in that of some other gentlemen, to the details of this proposition.

On motion of Mr. LANMAN, the further consid-

JANUARY, 1822.

Grant of Land to Louisiana.

SENATE.

eration of the resolution was then postponed to to-morrow.

On motion of Mr. TALBOT, the resolve for amending the Constitution with respect to cases of controversy between States and the United States, &c., was made the order of the day for Tuesday next.

THURSDAY, January 17.

Mr. MILLS presented the petition of Eldad Parsons, the petition of Charles Simpson, and also the petition of Thadeus Gilbert; severally praying to be placed on the roll of Revolutionary pensioners. The petitions were read, and respectively referred to the Committee on Pensions.

Mr. PINKNEY presented the petition of Rebecca Hodgson, widow of Joseph Hodgson, deceased, praying remuneration for the loss of the house burnt in the year 1800, whilst occupied by the Government as the War Office; the petition was read, and referred to the Committee of Claims.

Mr. KNIGHT presented the petition of sundry merchants, traders, manufacturers, and others, of the town of Warwick, and its vicinity, in the State of Rhode Island, praying the passage of an act establishing a uniform system of bankruptcy; and the petition was read.

The Senate resumed the consideration of the report of the Committee of Finance, to whom was referred the petition of George Simpson, praying for compensation for his services in negotiating a loan; and, on motion by Mr. FINDLEY, it was laid on the table.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

In compliance with a resolution of the Senate, requesting the President "to cause a statement of expenditures upon the public buildings, and an account of their progress, to be annually laid before Congress, at the commencement of each session," I herewith transmit the annual report of the Commissioner of the Public Buildings. JAMES MONROE.

WASHINGTON, Jan. 15, 1822.

The Message together with the report were read.

The bill for the relief of Josiah Hook was considered, and ordered to be engrossed for a third reading.

The bill confirming the title of the Marquis de Maison Rouge to a tract of land, &c., (being the bill for the relief of D. W. Coxé;) the bill providing for the payment to the State of Mississippi of three per cent. of the net proceeds of the sales of public lands within the same; the bill supplemental to the act to authorize the appointment of commissioners to lay out a road from Wheeling to the Mississippi river, were read a second time, the first two being referred to the Committee of the Whole, and the last to the Committee of Roads and Canals.

The order of the day being then announced on the resolution for amending the Constitution in that part which provides the mode of electing Electors and Representatives to Congress, so as to make the same uniform throughout the United States.

Mr. SMITH rose and said, that he was accidentally absent yesterday when this subject was discussed in the Senate, and he could not at once and distinctly recall to mind the cogent argument by which the gentleman from New Jersey had supported this amendment, some two or three years ago. He believed, however, he could have the advantage of the gentleman's argument of yesterday through the stenographer's report of it. But, to give himself time to prepare himself to vote upon the proposition, and to discuss it, he moved to postpone the further consideration of the subject to this day week.

Which motion was agreed to.

The bill from the House of Representatives for authorizing the Secretary of the Treasury to cause to be paid to the State of Missouri three per cent. of the net proceeds of the public lands within the said State, was taken up. On motion of Mr. KING, of New York, however, the bill was recommitted to the Committee on Public Lands, with a view of incorporating in it similar provisions respecting the States of Mississippi and Alabama, that have been proposed to be enacted in separate bills, which originated in this House. The object of the recommitment was to reduce into one bill what was now divided into three bills, as Mr. K. thought unnecessarily.

The bill for the relief of Peggy Mellen, and the joint resolution for a distribution of the copies of the fourth census, both from the House of Representatives, were severally considered, and ordered to be read a third time.

Mr. OTIS, according to notice, introduced a bill to authorize the transfer of certain certificates of funded debt of the United States; which was read a first time.

Mr. HOLMES's bill respecting the compensation of officers of the customs, was next taken up, having been made the order of the day for this day. Mr. KING, of New York, said, he was in hopes to have obtained some information on this subject, which he had not yet received, and should be glad if the bill could be postponed until he could obtain it. This motion was opposed by Mr. HOLMES, of Maine, who feared that the effect of procrastination, however intended, would be to defeat the bill, the contents of which were well understood, it having, at the last session, passed this body, &c., and requiring no further postponement. Mr. OTIS disclaimed any wish to delay the bill, but moved to postpone the bill until to-morrow, not having expected it would be taken up to-day, and wishing further time to examine it. This motion was supported by Mr. JOHNSON, of Louisiana, on the same ground, and was opposed by Mr. HOLMES, of Maine, but was finally agreed to; and the bill comes up again to-morrow.

GRANT OF LAND TO LOUISIANA.

The bill for granting to the Governor of the State of Louisiana, for the time being, and his successors in office, two tracts of land in the county of Point Coupee, was taken up.

The consideration of this bill brought on a wide and discursive debate, in the course of which

Mr. JOHNSON and Mr. BROWN, the Senators from Louisiana, and others, supported the bill. From this discussion, it appeared that the bill had two objects: the first of which is to grant to the Governor of Louisiana the pre-emption to a tract of land (of only 85 acres) situated in the county of Point Coupee, in the State of Louisiana, being the same on which a small military fort was erected by the Spanish Government, as trustee for the people of the county, for the purpose of erecting thereon a seminary, for the support of which a fund has been established by voluntary subscription; a single individual (Julien Poydras) having subscribed eight hundred dollars per annum for the support of it. This land the State had asked for as a grant, but, to obviate the objection which some gentlemen had to the grant in the shape of a donation, the bill had been reported in its present shape. The second object of the bill is, to grant to the State of Louisiana the right of the United States to a tract of land in the county of Point Coupee, and State of Louisiana, containing forty arpents on the Mississippi river, and forty arpents back, at a remarkable bend in the river, about seven miles above the courthouse for said county, being the same on which the Great Levee is situated, in trust and for the sole use and benefit of the people of the county of Point Coupee forever, for the purpose of enabling them to repair and to keep up the said levee without molestation. This levee, it appears, costs the people of the parish \$10,000 per annum to keep it up, and the land, with this encumbrance, can be of no value to any but the people, and is only valuable to them because they may be able to preserve the timber standing on it, so useful in preventing and repairing crevasses in the levee.

Mr. VAN DYKE, thinking it a small object to require payment from the State for the first of these tracts of land, moved to amend the bill so as to make the grant an unconditional one. Mr. MORRIL was also of that opinion.

Mr. CHANDLER and Mr. LANMAN decidedly opposed these grants on any terms under their present impressions; thinking it was making an use of the public property which they had no right to make for partial purposes. Mr. THOMAS, Mr. DICKERSON, Mr. MORRIL, Mr. LOWRIE, Mr. SMITH, and Mr. TALBOT, also made observations on the subject. Had the bill been considered on its own merits merely, it would not have given rise probably to much discussion; but, in the minds of some gentlemen, it associated itself in principle with what is commonly called the Maryland proposition, and therefore appeared to them to require more serious and formal consideration than had yet been given to it.

At length, the bill was postponed to this day week, by a vote of 21 to 19.

CUMBERLAND ROAD.

The bill to provide for the repair of the Cumberland road (by erecting gates, and collecting tolls thereon, to be expended in the repairs of the road) was next in order, and the presiding officer commenced the reading of it.

Mr. LOWRIE said, he apprehended it was not necessary to proceed with the reading of the bill; for, if gentlemen would turn their attention at all to the contents of it, they must see that it was a revenue bill, and that this House had therefore nothing to do with originating it. To try the sense of the Senate on this point, he moved to lay the bill on the table.

Mr. JOHNSON, of Kentucky, expressed his surprise at this objection to the bill; and urged briefly the great importance of this road, and the indispensable necessity of establishing some system for keeping it in repair. He could not view this at all in the light of a revenue bill.

Mr. LOWRIE said, that the bill proposed that gates should be erected, and tolls received on the road, which of course accrued to the Treasury, and out of this fund the expenses of repairing the road were to be paid. Now, Mr. L. said, levying a tax at all, or in any shape, is the province of the House of Representatives. He was perfectly willing that the subject should be investigated as it deserved; but it was evident to him that the bill ought not to take the shape in which it now presented itself to the Senate. In order to try that question, he moved to postpone the bill indefinitely.

Mr. TALBOT said, he hoped the bill would not be postponed. This road, which had cost an immense sum to the United States, was going to ruin, and it was all-important to its preservation that this bill should pass. The bill, he said, does not contemplate the raising of a revenue, within the terms of the Constitutional limitation of the origination of such bills to the House of Representatives. For, said he, what is a revenue bill? It is a bill laying a general imposition on the people of the United States, for the general purposes of Government. This bill was not, he said, such a one. It proposed to collect money for a specific object, and for no other—a mere imposition of toll for a special purpose could not be considered as raising revenue. This road which had cost so much money, and was of vast importance in a commercial as well as political view, which was a monument of the wisdom and liberality of the General Government, ought to be preserved from dilapidation and other injuries, and he trusted that the Senate would not concur in the objection which was now taken to the bill which had been reported for that purpose.

Mr. JOHNSON, of Kentucky, wished to record his name on this question of postponement. If the construction which had been put on that part of the Constitution which regards revenue bills was correct, the Senate would have very little indeed to do with originating laws. Gentlemen certainly would not say that the Senate could not pass the bill on that ground. If it was opposed on other grounds—that, for example, of a want of power over the road now it was made, that was another and a fair ground of opposition. But, in the words of the Constitution, "All bills for raising revenue shall originate in the House of Representatives," he could discover no objection to this bill. Perhaps his zeal in favor of the object of the bill had blinded him; certain it was, he said,

JANUARY, 1822.

Proceedings.

SENATE.

he could imagine nothing much further from a revenue bill than this bill was. If, he said, this great road was to be suffered to go to decay, after the million of dollars which had been spent upon it, to connect New Orleans and Boston by an interior communication, let it go. He could trudge over the mountains, and through the valleys, without the road, as well as others, but he should lament it; and he hoped the question on this bill would be tried on its merits, and not on an incidental question.

Mr. OTIS said, he was not at present reconciled to an indefinite postponement of this bill, in regard to the object of it, on which there had been so great an expenditure of public money, but which was so cherished by a great portion of the people of the United States, and in which, perhaps, every portion of the people of the United States began to feel some interest. He never had been, he said, an advocate for expending on this road so great a mass of the public money as had been laid out upon it. But, after the road had been made, it was certainly incumbent on Congress to see whether or not they had the Constitutional power to keep that road in repair. The objection which was now made to this bill was new; and he should be glad, for his own part, to have time to examine it. When it was first suggested that it was a revenue bill, the objection had appeared to him, Mr. O., to be plausible; but further consideration led him to doubt on that point. He was inclined to think that this is not a revenue bill. The tax which it proposes is a voluntary and self-assumed tax. No man was obliged to pass over the road unless he chose; and if he chose to avail himself of this easement granted by the United States, under the Constitution, of paying at a certain rate therefor, Mr. O. said it struck him, with great deference to the opinion of others, that it was to be regarded rather as a matter of compact than as a matter of taxation. Heretofore the United States had granted to those using it the free enjoyment of this road, created at the expense of the Government. The question which this bill presents is, whether a consideration shall be annexed to and made the condition of this grant.

Mr. KING, of New York, said he should prefer that this bill should lie on the table, rather than be postponed. [Mr. LOWRIE assented to this course.] If, said Mr. K., the bill be not a revenue bill, it is so very near to it as to be likely to produce a collision between this and the other House as to its real character. On the whole, he thought it the best course to lay the bill upon the table, and to let it lie there until the other House should have acted on this subject.

Mr. LOWRIE said, he had not objected that Congress could not pass this bill because it was a revenue bill, but that, being such, the Senate could not originate it. By forcing it upon the Senate, as originating here, some gentlemen, among whom Mr. L. said he was one, would be compelled to be against the bill, though on principle favorable to its provisions.

The motion of Mr. K. to lay the bill on the table, was then agreed to.

17th CON. 1st SESS.—5

FRIDAY, January 18.

Mr. LANMAN presented the petition of Abijah Fuller, praying a pension. The petition was read, and referred to the Committee on Pensions.

Mr. LOWRIE, from the Committee on the Public Lands, to whom was referred the bill supplementary to the several acts for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans, reported the same with amendments, which were read.

Mr. BENTON, from the same committee, to was referred the bill concerning the lands and salt springs to be granted to the State of Missouri, for the purposes of education, and for other public uses, reported the same with an amendment, which was read.

Mr. EATON, from the same committee, to whom was referred the petition of John M. Whitney and John Snodgrass, in behalf of the legal representatives of Alexander Montgomery, deceased, reported a bill for the relief of the heirs and representatives of Alexander Montgomery. The bill was read, and passed to the second reading.

Mr. VAN BUREN presented the memorial of "The American Society for the encouragement of Domestic Manufactures," praying the protection of Congress to national industry. The memorial was read, and ordered to be printed for the use of the Senate, and referred to the Committee on Commerce and Manufactures.

Mr. FINDLEY submitted the following motion for consideration:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a more direct post route than at present exists from the City of Washington to the city of Pittsburg.

The bill authorizing the transfer of certain certificates of the funded debt of the United States was read the second time.

Mr. HOLMES, of Mississippi, communicated an attested copy of the act of the Legislature of the State of Mississippi, entitled "An act making appropriations for the Natchez Hospital," and requesting the consent of Congress thereto; the act was read, and referred to the Committee on Commerce and Manufactures.

Mr. KING, of Alabama, laid before the Senate resolutions of the Legislature of the State of Alabama, requesting their Senators and Representatives in Congress to use their exertions to procure an appropriation for treating with the Creek and other nations of Indians, relative to the cession of certain parts of their territory; and the resolutions were read.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Missouri, and for the establishment of a district court therein;" in which bill they request the concurrence of the Senate.

Mr. VAN BUREN presented the petition of William Vaughan, sailing-master in the Navy, praying to be allowed prize money for the destruction of two vessels of the enemy, in the late war; the

SENATE.

Officers of the Customs.

JANUARY, 1822.

petition was read, and referred to the Committee on Naval Affairs.

OFFICERS OF THE CUSTOMS.

The Senate then resumed the consideration of the bill to establish certain collection districts, and fix the compensation of officers of the customs.

The Secretary proceeded to read over the bill by sections, for the purpose of affording opportunities for proposing amendment.

Mr. DICKERSON proposed to strike out so much of the 3d section of the bill as proposes to abolish the office of assistant collector at the town of Jersey, in the district of New York, and he supported the motion at some length.

Mr. HOLMES, of Maine, opposed the motion at some length—asserting, in the course of his remarks, that this office was a mere sinecure, the incumbent receiving a thousand dollars per annum for doing nothing whatever. So little was he known as a public officer, that he had had some difficulty in ascertaining who he was.

Mr. DICKERSON replied, and accounted for the circumstance that no duties appeared to be discharged by this officer, by the fact that all the business was done in the name of the collector of the port of New York. Should this office be abolished, Mr. D. argued, nothing would be saved to the United States, since an officer must be still kept at Jersey to perform the same duties as this officer, but under a different designation, &c. If the office was to be abolished, however, he hoped the appointment of the substitute officer would not be placed under the control of the collector of the port of New York.

After some further observations between Messrs. HOLMES and DICKERSON, the question was taken on Mr. DICKERSON's motion, and decided in the negative by a decided majority.

The 7th section was then read, which, among other provisions, fixes the commissions of the collector of the port of New York at one-eighth of one per cent. (instead of one-fourth as at present allowed) on all moneys collected by him. On this clause a debate arose of considerable extent, of which, as it was in a great degree local, the following brief report will afford a sufficient view.

Mr. KING, of New York, had not all the information he desired and expected on this point, but he considered the reduction liable to objection on several accounts. If the reduction took place, the commission would not be sufficient to defray the expenses incident to the collection, and leave four thousand dollars for the collector, which was the amount proposed by the bill for him to receive. In fact, since the present collector came into office, he had in one year been a loser, even with the present commission, of one-fourth per cent.; it was clear, therefore, that the reduction would make the collector a debtor instead of a gainer by his office. Further to show which, Mr. K. particularly adverted to the great expenses which are incidental to the collector's office in New York; in which, as one item, there were no less than twenty-eight clerks necessary, and they always fully employed. One-half of the entire revenue of the country pass-

ed through the hands of the collector of the port of New York, and Mr. K. argued against the propriety of leaving an officer of so much responsibility in such a situation as to his emoluments. That officer was required to give a bond, he believed, of \$60,000, not only for his own fidelity, but in fact for the fidelity of every person employed by him. It was a difficult matter to obtain security to such an amount, and the difficulty would be increased if the compensation of the officer was rendered so precarious, or reduced below a fair and proper sum. Every part of the nation was concerned in the fidelity of this officer; and burdened as he was with so great a trust, ought he, Mr. K. asked, to be pressed down by a mistaken parsimony? On the contrary, ought he not to have a compensation suited to the office, and something like a remuneration for his risk and services? Would it be prudent for the Government to press upon officers filling such places, by denying them a fair, and even a liberal compensation? For a small sum, it was true, the Government might obtain diligence, and perhaps ability; but, in offices like this, these qualifications were not sufficient—fidelity must also be obtained. Towards men thus fitted for offices of extraordinary trust, there ought to be shown something more than a cold and indifferent feeling; there was something due to their probity, where the trust was so great; some encouragement to virtue, where an opposite quality could be so mischievous. Press this officer in the manner contemplated, and Mr. K. believed he would have to surrender his office. He contrasted the duties, and the responsibility of the collector of New York, with other offices, to show that it was inferior to none, and argued that it was bad economy, contrary to the public interests, and even hazardous, to refuse to the situation a just compensation. Mr. K. complained, also, that the information furnished to the Senate was not as full as it should be, to enable it to decide with confidence on this subject, and observed that, if the returns necessary to furnish it had not been received at the Treasury, as required by law, the penalties for delinquency ought to be inflicted. Not having this information to guide them, he submitted to the Senate whether it ought to proceed to act on a subject involved in so much doubt and fear as the business of reduction in this branch of the public service, in the correct performance of which the whole country was so much concerned. This, Mr. K. said, was not the quarter in which to begin the work of reduction; there were others, if true economy was the object, which ought to be first taken into consideration—the receivers of the interior, for instance, and many others which were well worth looking into. There was no country whose revenue was collected so cheaply as this, and a reduction here would, in his opinion, lead to no beneficial results.

Mr. HOLMES, of Maine, replied that he had obtained from the Treasury Department all the information which he had deemed necessary to guide the Senate in acting on this subject; it embraced three years' returns from the custom-houses, inclu-

JANUARY, 1822.

Officers of the Customs.

SENATE.

ding 1821, and he was ready to submit it to the Senate on any point on which he had omitted explanation. Having this information, Mr. H. could speak with exactness of the emoluments and official expenditures of the collector of New York, and he could assure the Senate that an allowance of one-eighth per cent. would create no danger of reducing the collector's compensation below the maximum which the committee had fixed on—namely, \$4,000. The expenses of the custom-houses, Mr. H. said, could be very well reduced; to prove which, he mentioned the fact, that in the Philadelphia office, since the subject was before the Senate last session, the expense of clerk hire alone had been reduced to \$5,000 from (what the Reporter understood it to be) \$10,000; and he stated the fact to show, also, that if the mere discussion of the subject had produced this result, as was probable, how much good might be anticipated from a well-regulated law on the subject. He admitted that officers filling places of so much trust, with so much of the public money passing through their hands, ought to be well paid, and, in fixing their compensation at four thousand dollars, the committee conceived they were acting with liberality; they had gone on the principle that the laborer was worthy of his hire, and, taking into view the duties of these officers, he really thought they were amply paid. Nor were the \$4,000, fixed on, all that they would get; for, Mr. H. stated, there were charges for fuel, house rent, &c., allowed, over and above the salary, which amounted, in some of the ports, to about \$1,000 more. It would also be recollected that, when fines and forfeitures did not exceed \$200, they were not placed in the Treasury, but were allowed to be used in defraying the costs of suit, &c. Much of these forfeitures no doubt went into the pockets of the collectors, for no return of them was required to be made to the Treasury Department; and he had no doubt that, as the bill stood, the emoluments of the large ports would amount to from six to ten thousand dollars.

Mr. H. protested against the doctrine of giving officers more than a fair salary for the purpose of making them honest. Compare the salaries of these collectors to those of the judges of the country, in whose hands were the lives and liberties of the people, and how much better were they paid! and were the duties and trust of the judiciary branch inferior to those of the collectors of the revenue? The collector of the port of New York, Mr. H. said, received a higher compensation than any judge in the Union, not even excepting the judges of the Supreme Court. Contrast the attainments, the education, and the abilities, necessary for the two offices, and how wide was the difference! Mr. H. concluded by saying he had no idea of bribing men to do their duty, and render them superior to temptation. Give them, said he, enough, but no more, and if they do not do their duty faithfully, there is a wholesome Constitutional remedy that can be applied.

Mr. VAN BUREN, for the purpose of bringing the subject distinctly before the Senate, moved to strike out one-eighth and insert one-fourth of one

per cent. The question of fixing the compensation of public officers, he remarked, was one of importance and entitled to consideration; but this was not the part of the bill to which the discussion of that question properly belonged, and he should therefore say nothing on it. The reduction, however, which the bill proposed in the commission of the collector was not tenable, he said: for it would be recollected that if the commission exceeded the salary of the collector and the expenses of the office, for clerk hire, contingencies, &c., the surplus went into the Treasury, as would be seen by referring to the proper documents, which showed that such surplus had often been received in the Treasury. The collector, therefore, was not interested in the amount of the commission further than that it should be sufficient to cover the expenses of his office and pay him the salary which the law allowed him. The design of the committee in reducing the commission thus low, was, as he understood, to make the collector practise economy to enable him to defray the expenses and receive his own compensation from the commission. This being the object, Mr. VAN BUREN went on to show that the proposed commission would be inadequate to provide that amount of compensation which the committee admitted the collector ought to receive; to prove which, he referred to the statements of several years, in the two last of which, with the present commission of one-fourth of one per cent. the surplus was but \$2,000; of course it was manifest that the commission would not have yielded the necessary amount had it been one-eighth. Where, therefore, he asked, was the necessity or the reason for a reduction which could save nothing, and might operate unjustly on a most responsible officer? As a means of compelling the officer to exercise economy, it was entirely unnecessary, because the Senate would see that other sections of the bill fully secured that object, and for which the committee deserved credit. As there was, therefore, no possible use for the reduction of the commission, he hoped it would be rejected, and the present rate allowed.

Mr. HOLMES rejoined that there was no difference in principle between himself and the gentleman who had just sat down, but a difference in calculation only; and he went into a number of statements to show that his own view of the subject was correct; that a commission of one-eighth would cover all proper expenses, and pay the collector's salary, and at the same time have the effect to produce economy in the officer. He adverted to what had been said of the great expenses of those offices, particularly the expense of clerk hire, and observed that what the collectors said on that point must be received with much allowance. These clerks were sometimes surveyors, weighers, &c., who performed the duties of clerks for nothing, to secure the other good offices; but that the collector charged this clerk hire, rendered gratuitously, and put the amount in his own pocket. Sometimes relations would give receipts for salaries they never received, for services they never rendered, to enable the collector to pocket the amount. Such things were said, and he would

SENATE.

Proceedings.

JANUARY, 1822.

be therefore cautious in believing all that was alleged of the amount of these expenses. He knew, himself, of no cases of direct fraud, but what he had heard had made him a little incredulous as to this matter of clerk hire. He would only add, that the Secretary of the Treasury was satisfied that the one-eighth would yield the necessary amount.

Mr. LOWRIE observed, it was not material how this question was decided, as it had nothing to do with settling the amount of compensation. The committee had agreed on a maximum allowance of four thousand dollars, and if it was supposed that one-eighth of one per cent. would not produce that amount, a higher commission should be fixed. He would suggest one-fifth, as was allowed in Philadelphia, and Boston, or one-sixth, if it was presumed that one-fourth would yield a surplus. It was not this part of the bill which he looked to for the correction of abuses, for such, he had no hesitation in saying, he believed to exist.

Mr. VAN BUREN altered his motion to the insertion of one-sixth of one per cent.

Mr. ORIS thought the question ought first to be taken on striking out, that the sum might be inserted afterwards, with reference to other cities, which were generally fixed in a certain ratio proportioned to the commission of New York. He thought the contest a very unprofitable one, and it was not the point on which the battle ought to take place; for if a certain salary was agreed on, it was of no sort of consequence whether it was raised by one-fourth or one-fifth, as the surplus goes into the Treasury, and must be accounted for. He had no idea that this surplus should remain in the hands of the collector for years, for the purpose of speculation, &c., and it ought to be guarded against, as well as all other abuses; but, at the same time he did not conceive it proper to deal with these collectors, or speak of them, as if they were culprits or felons, and amenable to justice; and he thought every consideration of equity and policy required that they should be well paid.

Mr. MACON said, this question might be settled by a short clause, providing that, if the commission fall short, the deficiency should be made up out of the Treasury. As to the object of the bill, it was its misfortune that it would meet with opposition here from every State where there were officers interested. He did not know much, he said, of high salaries or great offices in his part of the country; but, whatever might be said of these places and of the danger of not getting men to fill them, there had never been any difficulty of that sort. He put no confidence in any such fears when he saw members quitting their seats in the Senate to take those places, and were glad of them. These offices, therefore, could not be very bad. He for one had been willing to fix the highest salaries at \$4,000—[they are now \$5,000]—and he thought it enough. As to securing the honesty of officers, Mr. M. said, a man who would not be dishonest with five thousand dollars salary, would not be a rogue with four thousand. Whenever Congress tried to reform any branch of the service, they were always told that was not the right de-

partment to begin with—every attempt to reduce expenses was met with that answer. There was a sort of pride, he said, in high salaries, and he had heard people from some States boast that they gave to their officers such and such large salaries; but in one of the best regulated States of the Union they never talked in this way. He alluded to the State of Connecticut, one of the best regulated communities in the world—there was no boasting of high salaries there. The object of the committee in reporting the bill was to give enough, and at the same time reform abuses which were believed to exist, and he hoped that object would not be defeated.

Mr. HOLMES would not go as far as some of the other members of the committee in saying that the collectors were to have four thousand dollars at any rate; but the committee had made a calculation by which it appeared that, with economy and prudence, the officer might get that much. But if the salary were fixed at that sum, to be paid at any rate, it would destroy the object of the bill by taking away the inducement of the collectors to practise economy. They will then expend what they please, give what salaries they please, and no reform will be effected. He had also rather retain the commission proposed by the bill.

Mr. VAN BUREN thought it was strange that the gentleman from Maine should adhere to this reduction with such pertinacity, in the face of two facts. The first was, that Mr. HOLMES admitted that he wished the collectors to get four thousand dollars, which cannot be got but by law; and the other, that for the two last years the one-eighth, it was shown, would not have amounted to four thousand dollars above the expenses; by withholding it from them directly, a temptation was held out to retain that amount indirectly.

The question being divided, the Senate agreed to strike out *one-eighth*—ayes 24; and the blank was then filled with *one-sixth* of one per cent.

Mr. KNIGHT moved to amend the 8th section by adding the collector of Pawtuxet to those proposed in the bill to receive a salary of two hundred dollars.

Some discussion followed this motion, embracing other points as well as the immediate one, in which Messrs. KNIGHT, LOWRIE, LLOYD, BARBOUR, and HOLMES, took part; but, before any question was taken, the bill was postponed to Monday, to which day the Senate then adjourned.

MONDAY, January 21.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Isaac Finch," reported the same without amendment.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the bill, entitled "An act to revive and continue in force an act, entitled 'An act to provide for persons who were disabled by known wounds received in the Revolutionary war,'" reported the same without amendment.

Mr. THOMAS presented the memorial of a number of the inhabitants of the State of Illinois,

JANUARY, 1822.

Officers of the Customs.

SENATE.

praying the right of pre-emption; the memorial was read, and referred to the Committee on Public Lands.

Mr. VAN DYKE, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of James H. Clark. The bill was read, and passed to a second reading.

Mr. NOBLE presented the memorial of Eliza Dill, Jane Jervis, and Louisa St. Clair Robb, daughters of the late General Arthur St. Clair, praying the payment of the balance stated to be due to their deceased father. The memorial was read, and referred to the Committee of Claims.

Mr. THOMAS gave notice that to-morrow he should ask leave to introduce a bill to authorize the State of Illinois to open a canal through the public lands, to connect the Illinois river and Lake Michigan.

Mr. LOWRIE presented the memorial of the Pennsylvania Society for promoting the abolition of slavery and the slave trade. The petition was read, and referred to the Committee on the Judiciary.

Mr. RUGGLES presented the petition of a number of the citizens of the State of Ohio, in favor of such measures as will best promote the amelioration and civilization of the Indian tribes. The petition was read, and referred to the Committee on Indian Affairs.

Mr. LOWRIE gave notice that to-morrow he should ask leave to introduce a bill vesting in the respective States the right of the United States to all fines assessed for the non-performance of militia duty, during the last war.

Mr. WALKER presented the petition of James W. Files, praying relief, as purchaser of a certain section of the public land in the Huntsville land district, in the State of Alabama. The petition was read, and referred to the Committee on Public Lands.

Mr. WILLIAMS, of Tennessee, presented the petition of James Grant, of Tennessee, praying a pension. The petition was read, and referred to the Committee on Pensions.

Mr. JOHNSON, of Kentucky, presented the petition of Joseph Brown, of Kentucky, praying a pension. The petition was read, and referred to the Committee on Pensions.

The resolution providing for the distribution of the fourth census was read a third time, and passed.

The bill entitled "An act for the relief of Peggy Mellen" was read the third time, and passed.

The bill for the relief of Josiah Hook, jr. was read a third time, and passed.

The bill for the relief of the heirs and representatives of Alexander Montgomery was read the second time.

The Senate resumed the consideration of the motion of the 18th instant for instructing the Committee on the Post Office and Post Roads to inquire into the expediency of establishing a more direct post route than at present exists from the city of Washington to the city of Pittsburg, and agreed thereto.

Mr. KING, of New York, from the joint com-

mittee of the two Houses, appointed on the rules of proceeding, reported an amendment to the joint rules, which proposes that no bill shall be sent from either House to the other for concurrence on any one of the three last days of a session; and that no bill shall be presented to the President of the United States for his approbation on the last day of any session.

Mr. BENTON, after some remarks explanatory of the object, and to show the necessity of the inquiry which he rose to propose, submitted the following resolution:

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of making further provision by law for the final adjustment of private land claims in the State of Missouri.

The bill from the House of Representatives, providing for extending the laws of the Union to the State of Missouri, was read the first time.

The resolution heretofore submitted by Mr. BARBOUR, proposing to amend the Constitution so as to fix the number of which the House of Representatives shall consist, being the order of the day, was announced by the President.

Mr. BARBOUR said, it would be recollected that the subject of fixing the number of Representatives for the next ten years was now before the other House; it was of no use, therefore, to press the question on this resolution to an early decision, as the amendment could not operate for some time; and as the decision of the pending question in the House of Representatives would be an indication of the number which it would be expedient to propose in the Constitutional provision, the Senate would see the propriety of postponing the further consideration of this resolution for some time. He therefore moved its postponement to the third Monday of February; which motion prevailed, and the resolution was postponed accordingly.

OFFICERS OF THE CUSTOMS.

The Senate then again proceeded to the consideration of a bill to establish the compensation of officers of the customs, &c.

On motion of Mr. HOLMES, of Maine, the bill was modified by altering the proposed commission to be allowed on the collections at Philadelphia and Boston, from one-fifth to one-sixth of one per cent.

Mr. BROWN, of Louisiana, moved that the commission proposed to be allowed to the collector of the port of New Orleans be increased from one per cent. to one and a half, as at present fixed by law; which motion he supported by a number of remarks to show the impropriety and inutility of reducing the commission.

Mr. HOLMES, of Maine, opposed the amendment for various reasons, but paid a compliment to the extraordinary economy which had been exercised by the collector of that port in his contingent expenses.

Considerable debate followed on this amendment between Mr. BROWN, and Mr. HOLMES, and Mr. OTIS, of a character similar to that which took place on Friday, on the commission proposed

for the collector of New York, but turning incidentally somewhat on the general question of reduction in the pay of collectors. The debate resulted in the rejection of the amendment proposed by Mr. BROWN—yeas 14, nays 24.

Mr. VAN DYKE, for sundry reasons which he offered to the Senate, going to show the justice and expediency of allowing to the collector of Wilmington, in Delaware, a higher compensation than what the bill proposed, (\$250,) moved to raise the sum to \$500, the amount provided for the collector at Sackett's Harbor.

Mr. HOLMES, of Maine, entered into a number of details to show that the entire emoluments which the collector of Wilmington would probably receive in salary and fees, would amount to about \$1,100, and that the motion to augment the salary ought not to prevail.

Mr. VAN DYKE replied at some length to show that the estimate of the emoluments was much overrated, and that they could not exceed \$500; he also argued against the unreasonable reduction of the compensation of officers of so much trust, spoke of the faithful and upright character of the officer at Wilmington, the injustice of reducing his allowance below that granted to the collector at Sackett's Harbor, &c.

After some further debate, in which Mr. VAN BUREN and Mr. BROWN, of Louisiana, supported the motion, the question was taken on Mr. VAN DYKE's motion, and negatived—yeas 14.

The ninth section was then read, as follows:

SEC. 9. *And it further enacted*, That, whenever the emoluments of any collector of the customs of either of the ports of Boston, New York, Philadelphia, Baltimore, Charleston, or New Orleans, shall exceed four thousand dollars, or the emoluments of any naval officer of either of said ports shall exceed three thousand dollars, or the emoluments of any surveyor of either of said ports shall exceed two thousand five hundred dollars, in any one year, after deducting the necessary expenses incident to his office in the same year, the excess shall, in every such case, be paid into the Treasury, for the use of the United States.

Mr. BROWN, of Louisiana, although he almost despaired of obtaining the amendment which he desired and thought just, would nevertheless move to strike New Orleans from the section, so as to leave the salary of the officer at the port the same as now provided by law, viz: five thousand dollars. Mr. B. followed his motion with a number of remarks to establish the justice of the amendment he proposed. He adverted to the peculiar nature of the duties of the officer in question, who, from the vicinity of the islands, and foreign territory, the facilities for smuggling, and the prevalence of piracy in that quarter, must necessarily always be on the alert, whose presence was every where necessary, and who was liable to the most arduous and hazardous duties. Mr. B. referred also to the extreme unhealthiness of the city of New Orleans at certain seasons of the year, which endangered the lives of all whose business confined them there at those times. It seemed to be acquiesced in that the collectors at Boston, Philadelphia, and other large ports, should be reduced

to four thousand dollars, though Mr. B. did not assent to the propriety of the reduction; but admitting it, he contended that an officer, compelled by his duties to brave the horrors and the hazards of the yellow fever, at New Orleans, was entitled to something more—some discrimination—some compensation for the risk. There were even other reasons for the discrimination—the dearness of the place as regarded the necessities of life, in which, beside the high price of subsistence, a house for a moderate family could not be got for a rent of less than eight hundred dollars. The Government had always considered these things in fixing the compensation of its officers at New Orleans, and with justice—the judge of that district received a higher salary than any other in the Union, and the United States' attorney received an additional allowance. The State officers there, also, were allowed higher salaries than in any other State—the people of the State knew that it was right and reasonable that they should. The Governor received a salary of seven thousand five hundred dollars, and other officers in proportion; even the judges of the inferior courts of the State, at New Orleans, were paid four thousand dollars a year; the people were sensible of the justice of these allowances, and Mr. B. thought their ideas on the subject, in regard to their own officers, were a good criterion for the General Government, in fixing the compensations of its officers there. Though not much encouraged by the fate of his former motion, yet he hoped the reasonableness of this amendment would obtain for it the favor of the Senate.

Mr. HOLMES, of Maine, replied, that gentlemen from the North were, from necessity, in the habit of making pretty close calculations in money matters, and therefore large salaries were viewed by them with less satisfaction. He attributed the large salaries given in the Southern States, not to the sickness of the climate, but to the great wealth of the South—small sums there were regarded as nothing—nothing below thousands was spoken of, or deemed worthy of consideration. He remembered it had been proposed once to allow this officer a salary of ten thousand dollars; but, Mr. H. contended, it was improper to allow to the collector of a port as high a salary as the highest officer of the State; though the collector in question would not receive, in salary and fees, less than from six to ten thousand dollars. As to the reason that the greater prevalence of smuggling and piracy there, gave him a claim to a higher salary, Mr. H. said, that was an argument against it, because these produced more fines and forfeitures, and of course, more fees; so that the officer's duty in that respect and his emoluments, were increased in the same proportion. As to the sickness of the port, Mr. H. knew of no officer who had sacrificed his health there; one collector, it was true, but whether from that cause or not he could not tell, went off once and carried all the public money with him. The present officer had not complained of the risk, and it was not greater, Mr. H. presumed, than at Savannah and some other ports. In fact he argued there was no reason for a discrimination unless it was against the

JANUARY, 1822.

Proceedings.

SENATE.

office at New Orleans, for that port was not equal in duties and services to the other great ports, except in regard to fines and forfeitures, and these were to the advantage of the collector. Mr. H. submitted another fact opposed to the amendment. It was the practice to employ in the large ports a deputy to act in the occasional necessary absence, or sickness, of the collector; and it had happened, some how or other, that these deputies had become permanent officers, receiving regular salaries, and the principal collector was, therefore, only occasionally present instead of occasionally absent. In one port the deputy received a salary of three thousand dollars—in Philadelphia he was allowed two thousand dollars. This deputy made the situation of the collector much more easy and relieved him from the necessity of attending when it was hazardous to do so. Mr. H. concluded by saying, that he considered the salary of four thousand dollars, together with the other emoluments annexed to the office of collector, in the large ports, as making it better than any other office under the Government, and he would therefore oppose an increase of it.

Mr. BROWN rejoined, that though the gentleman professed to come from a part of the country where they calculated with great exactness, yet he had made a material mistake in his calculations on this subject; for he had forgotten to take into the account the great difference in the cost of living in New Orleans and the other ports where an equal salary was proposed. Compared with Boston, it was one-third dearer, yet in Boston the same sum was to be allowed, besides the advantage of a deputy. This striking disadvantage in New Orleans, added to the others which he had adverted to, always induced the Government to give higher salaries to its officers there; it had never before been denied, so reasonable was the discrimination. The collector at Boston, it seemed, was allowed a deputy, with a handsome salary: had this happened in the South, they would have found it out before now, little accustomed as they were to close calculations. But no such thing existed in New Orleans; the collector there was always in attendance and never absent from the discharge of his duties. Mr. B. denied the general allegation of the overgrown wealth of the South, as regarded Louisiana, and stated some facts in point. He recapitulated substantially the arguments he had advanced, to show the propriety and justice of the augmentation; referring particularly to the mortality which desolates the city of New Orleans at a certain season, though one of the most healthy places in the world during nine months in the year. The collector was obliged to brave this danger, and discharge his duties himself in the face of it; and Mr. B. asked if there was any comparison in the risk and the expense between a residence at New Orleans and at Boston, or whether the gentleman from Maine would not prefer an office in Philadelphia, where living was even cheaper than in Boston, with a salary of two thousand dollars, to one in New Orleans with four thousand dollars?

Mr. HOLMES said, as it was characteristic of his

country, he would answer the gentleman's question by asking him one. Would the collector at New Orleans exchange his office for the one in Boston, on equal terms? He presumed not. As to the question of dearth, he knew that the great article of breadstuff, of flour, that which was used in Maine, and that quarter, often came from Kentucky by the way of New Orleans, and he presumed it was cheaper at the port whence it was imported than where it was consumed.

Some discussion ensued, on a motion to lay the bill by until to-morrow, in which Mr. OTIS incidentally expressed himself averse to the proposed general reduction, and in favor of the amendment, even though the exception should be confined to New Orleans, for the reasons offered by Mr. BROWN. Mr. O. did not think this was the branch of service to which the pruning knife ought to be first applied, but the very last. Finally, the bill was postponed until to-morrow.

TUESDAY, January 22.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of Rebecca Hodgson, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted.

Mr. THOMAS, from the Committee on Public Lands, to whom was referred the petition of John Caldwell, and others, purchasers of lots in Shawneetown, in the State of Illinois, made a report, accompanied by a bill to authorize the Commissioner of the General Land Office to remit the instalments due on certain lots in Shawneetown, in the State of Illinois. The report and bill were read, and the bill passed to the second reading.

Mr. RUGGLES submitted the following motion for consideration:

Resolved, That the Secretary of State be requested to transmit to the Senate the returns of manufacturing establishments and manufactures, taken by the marshals of the several States, under the act of the 14th of March, 1820, "Providing for taking the fourth census or enumeration of the inhabitants of the United States, and for other purposes."

Mr. THOMAS presented the petition of William Biggs, praying remuneration for services rendered during the Revolutionary war. The petition was read, and referred to the Committee on Claims.

Mr. KING, of Alabama, presented the memorial of the Legislature of the State of Alabama, respecting the improvement of the navigable waters in that State. The memorial was read, and referred to the Committee on Roads and Canals.

Mr. BARTON presented the memorial of the Legislature of the State of Missouri, praying the payment to the State of the three-fifths of five per centum on all sales of public lands made subsequently to the 19th of July, 1821. The memorial was read, and, on his motion, laid on the table.

Mr. WALKER presented the resolutions of the Legislature of the State of Alabama, respecting the annexation of part of West Florida to that State. The resolutions were read, and referred to the Committee on the Judiciary.

The Senate resumed the consideration of the motion of the 21st instant for instructing the Committee on Public Lands to inquire into the expediency of making further provision by law for the final adjustment of private land claims in the State of Missouri; and agreed thereto.

The Senate resumed the consideration of the report of the committee, appointed on the part of the Senate, jointly with the committee on the part of the House of Representatives, to revise the rules and orders by which the business of the two Houses shall be regulated, as follows:

That the joint committee have had the subject referred to them under consideration, and have agreed to recommend the following rules, in addition to the joint rules and orders of the two Houses, viz:

"No bill that shall have passed one House shall be sent for concurrence to the other on either of the three last days of the session."

"No bill or resolution that shall have passed the House of Representatives and the Senate shall be presented to the President of the United States, for his approbation, on the last day of the session."

Whereupon, *Resolved*, That the Senate concur therein.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the memorial of the Trustees of the Transylvania University, praying for a repeal of the duties on books imported into the United States; and the further consideration thereof was postponed until Friday next.

The bill entitled "An act to provide for the due execution of the laws of the United States within the State of Missouri, and for the establishment of a district court therein," was read the second time, and referred to the Committee on the Judiciary.

The bill for the relief of James H. Clark was read the second time.

Mr. BARTON submitted the following resolution for consideration, which he accompanied by some remarks explanatory of its object:

Resolved, That the Committee on Public Lands be instructed to inquire whether any further legislation be necessary to perfect the titles to lands which have been located by virtue of warrants issued under the act of the 17th day of February, 1815, entitled "An Act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes."

MILITIA FINES.

Agreeably to notice, Mr. LOWRIE asked leave to introduce a bill to vest in the respective States the right of the United States to all fines assessed for the non-performance of militia duty during the last war.

Mr. LOWRIE observed, that, on the 15th May, 1820, he submitted a resolution requesting the President to cause information to be laid before the Senate on the subject of the militia, and militia fines. Among other points, that resolution embraced the following: The number of the militia called into the service of the United States from each State, during the last war. The number furnished by each State, and the period of

their service; the amount of fines imposed; the sums collected, and the expense of collection. The information furnished, in answer to the call of the Senate, did not give the definite number that was called into the service of the United States from the different States. From the extracts of correspondence furnished to the Senate by the War Department, it appeared that, at different times, requisitions were made on the different States for their respective quotas of 195,500 men, as the exigency of the public service required. From Pennsylvania alone, had Mr. L. been able to find the number required, and that information was obtained from the State Government. The number furnished by each State has been afforded to the Senate by the Third Auditor, in answer to the call of the Senate, as follows:

New Hampshire	-	-	-	-	4,577
Massachusetts	-	-	-	-	2,349
Rhode Island	-	-	-	-	681
Connecticut	-	-	-	-	7,363
Vermont	-	-	-	-	4,011
New York	-	-	-	-	58,367
New Jersey	-	-	-	-	4,637
Delaware	-	-	-	-	3,059
Pennsylvania	-	-	-	-	21,926
Maryland	-	-	-	-	42,636
District of Columbia	-	-	-	-	3,276
Virginia	-	-	-	-	71,254
North Carolina	-	-	-	-	10,222
South Carolina	-	-	-	-	9,178
Georgia	-	-	-	-	9,158
Kentucky	-	-	-	-	15,781
Tennessee	-	-	-	-	22,062
Ohio	-	-	-	-	18,298
Louisiana	-	-	-	-	7,222
Indiana	-	-	-	-	2,592
Mississippi	-	-	-	-	3,646
Illinois	-	-	-	-	2,001
Missouri	-	-	-	-	1,236
Michigan	-	-	-	-	481

From the office of the Third Auditor, we are also furnished, said Mr. L., with the amount of fines assessed in eight States, to wit:

New Hampshire	-	-	-	-	\$120 00
New York	-	-	-	-	188,114 00
Pennsylvania	-	-	-	-	243,609 41
Maryland	-	-	-	-	15,154 00
Virginia	-	-	-	-	15,377 00
Ohio	-	-	-	-	436 00
Kentucky	-	-	-	-	7,144 00
Tennessee	-	-	-	-	13,711 00

\$483,685 41

Mr. L. observed that he would now bring before the Senate some information as to the amount of the fines collected, and the expense of the collection.

New Hampshire collected three fines—\$120. Expense of collection, \$233 88.

New Jersey never collected any money for fines.

New York collected \$15,794 54, and the expense was the same.

Pennsylvania.—John Smith, late marshal, without stating what he had received, says he has

JANUARY, 1822.

Officers of the Customs.

SENATE.

paid \$2,742 34 more than he received. John Conard, the present marshal, has collected \$3,671 30, and paid, in expense of collection, \$3,590 56.

Maryland.—Thomas Rutter, the late marshal, states that he had commenced suits, but found great difficulty in collecting the fines—some went to jail—others brought suit after payment—he had received but three fines, which he would pay over if he were not called upon to refund them. The present marshal never received any.

Virginia.—The collection of the fines in Virginia appears to have been arrested by the decision of Chief Justice Marshall, in the case of William Meade. Meade was detained in custody for the non-payment of a militia fine. The obligation of the sentence of the court martial was denied on three grounds: 1. The court martial was not constituted under the authority of the United States. 2. The proceedings were not conducted as the State laws direct. 3. The fine was assessed without notice to the individual. The Chief Justice, without deciding the first point, (as I understand him,) declared the sentence void on account of the two last.

Ohio.—The business was performed by the State officers. No fines were collected by the marshal, and the district attorney gave it as his opinion that it was impracticable to collect them.

East Tennessee.—\$1,792 75 was collected, but the supreme court of Tennessee decided that the courts martial had not power to assess the fines.

West Tennessee.—The judge of the district court decided the proceedings of the courts martial to be illegal.

It appears, from a letter of the Register of the Treasury, that, from the State of New York, \$557 60 has been paid into the Treasury, which is the whole amount received.

In the State of Pennsylvania, said Mr. L., the collection of these fines has long been a subject of much interest. The courts martial were constituted under the authority of an act of the Legislature. Objections were made to their jurisdiction, and not until the Supreme Court of the United States passed upon the subject was the question finally settled. The case sent up for adjudication was the following: Moore, the deputy marshal of Lancaster county, Pennsylvania, collected a fine from Houston, a delinquent militiaman, who, after the fine was collected, brought suit against Moore in the court of common pleas. His objection was, that part of the State law was unconstitutional. The court sustained the objection, and judgment was rendered against the deputy marshal. A writ of error was immediately taken to the supreme court of the State. This decision of the court of common pleas raised a very considerable excitement in the public mind. Of what use, it was asked, are our laws; of what use is patriotism, if those who disobey the law are protected, and those who left their homes for the defence of their country, are to be subjected to fines and penalties, and stigmatized as trespassers? The Legislature, then in session, participated largely in these feelings. Petitions were presented from the deputy marshals and the mem-

bers of the courts martial, praying the interference and protection of the representatives of the people. The field officers of an entire brigade informed the Governor that, if this decision was sustained, they could not longer hold their commissions. There was, however, no direct manner by which the Legislature could act upon the subject. They passed an act directing the supreme court to meet immediately and decide upon the writ of error, and that counsel should be employed to aid the deputy marshal. The supreme court met accordingly, and reversed the decision of the court below. A writ of error was then taken to the Supreme Court of the United States. Mr. L. here went into an examination of the opinion of the Supreme Court, and read several extracts from the case as reported in 5th Wheaton's Reports, affirming the decision of the supreme court of Pennsylvania. These, said Mr. L., are some of the most important facts and principles connected with the bill I now offer to the consideration of the Senate. I am aware that this is not the proper stage of the bill to offer any arguments in favor of its passage. My wish would be, however, to leave a favorable impression on the mind of the Senate. Pennsylvania is deeply interested in this measure. During the last war she furnished all the men required of her—she furnished more. The number called for was 20,387, the number furnished was 21,926, being 1,539 more than the requisition. If, in addition to this, you collect from her citizens a quarter of a million of dollars, her case will be a hard one. But I will leave these remarks until the bill shall come up for consideration in the Senate.

Leave was granted, and the bill received its first reading.

OFFICERS OF THE CUSTOMS.

The Senate then resumed the consideration of the bill to establish the compensation of collectors of the customs—the motion made yesterday by Mr. BROWN, of Louisiana, to exempt the collector of the port of New Orleans from the operation of the bill being still under consideration.

The question was taken on the motion without further debate, and lost—ayes 11, noes 20.

Mr. HOLMES, of Maine, stated that, inasmuch as it appeared, by an unofficial statement of the collector at Norfolk, that, owing to the operation of the restrictive system, the collections at that port had greatly diminished, it was considered necessary and proper to raise the proposed commission at that port from one per cent. to one and three-fourths; and as it appeared that the collections at the port of Richmond had increased considerably, it would be proper, for the purpose of producing something like equality in the emoluments of the officers at these two ports, to reduce the commission at the port of Richmond to one and three-fourths per cent.

Mr. PLEASANTS remarked that, as this bill had been prepared and matured with great care at the Treasury Department, and by the Committee of Finance, he had been satisfied with its correctness, and would not have interfered with its provisions;

but it now appeared that the chairman of the committee (Mr. HOLMES of Maine) had made a material error in relation to the emoluments of the collector of Norfolk, and proposed to remedy the error by raising the commission of that officer. But, Mr. P. said, he hoped the gentleman would have the liberality—he alluded to his liberality as a public man, not to personal or private liberality—to do justice to the officer at Norfolk, without cutting down the compensation of the collector at Richmond. Mr. P. saw no justice in this proceeding, and he hoped it would not prevail.

Mr. HOLMES, of Maine, observed, in reply, that in regard to the emoluments at Norfolk, the Treasury Department had no returns since the year 1820, when the falling off had not taken place there; but since that period the restrictive laws had, it appeared by an unofficial statement of the collector, produced a great reduction of the income at that port. Having entire confidence in the statement of the officer, he was willing to legislate on the faith of it, and make a proportionable augmentation of his commission. At Richmond, however, the receipts had increased and were increasing, and at that point, moreover, there was no naval officer to divide the fees with the collector—at Norfolk there was. In Richmond, also, the contingent expenses were unreasonably great in one respect at least—in the item of office rent, for instance \$600 was charged, a sum greater than was charged at any other port in the United States. The simple reason, in short, for the motion was, that one office would justify reduction, and the other required an increase of the emoluments, and it was to equalize the two that he moved the amendment.

Mr. BARBOUR advocated an increase of the compensation of the collector of Norfolk, which had in fact fallen off so far as to be now below that of the inspector of the port, and the net proceeds of which, after paying expenses, would not defray even the officer's house rent, or the cost of his fuel and water. Mr. B. was advised of this fact by the collector himself, in whose word he had the most implicit confidence. But why was it necessary to rob Peter to pay Paul? Why reduce the emoluments at Richmond to do justice to the officer at Norfolk? The question ought to be an insulated one, he argued, and not connected with another. The peculiar state of affairs at Norfolk, Mr. B. remarked, resulted from the navigation policy now in force. That town was once prosperous, and the compensation of the collector, at a commission of three-fourths of one per cent., amounted to five thousand dollars. It was now different; such was the effect of the navigation system adopted for the public interest, of which Mr. B. said he did not mean to complain, because private good must always yield to the public interest. Such was the effect of this system, however, on the port of Norfolk, as stated by the collector, whom he would as soon believe as Cato himself. Mr. B. examined the basis on which the calculations of the Committee of Finance were bottomed, to show that the commission at Norfolk ought to be two per cent. The office was one of great responsibility,

and if there was any thing in the argument urged yesterday by the gentleman from Louisiana, founded on the unhealthiness of New Orleans, that argument would apply with nearly as much force to Norfolk. Mr. B. then proceeded to oppose the diminution of the commission of the collector at Richmond. If the mover of the reduction went upon personal considerations, he could assure him that the collector at Richmond was the last man that ought to be touched. This officer was an old man, with a large family, entirely dependent on the income of the office; he was a soldier of the Revolution, a gallant and distinguished one—a man of whom the Father of his Country had made honorable mention—who had led the forlorn hope at Stony Point—whose name would occupy a bright page in the annals of his country. Should this man have the support of his age taken from him, and his family left without bread? He hoped not; and to prevent it, Mr. B. moved a division of the question, that it might be taken separately from Richmond and moved, further, that Norfolk be allowed two per cent.

Mr. HOLMES replied at some length, and argued to show that it was as just and reasonable to reduce the compensation at Richmond from its present amount, as to increase that at Norfolk to two per cent. it was negatived—ayes 10.

Mr. HOLMES's motion to fix the commission at $1\frac{3}{4}$ per cent. was then agreed to.

The question being stated on reducing the commissions at Richmond to $1\frac{1}{2}$ per cent. to which Mr. HOLMES had varied his motion—

Mr. BARBOUR observed, that the gentleman had heretofore been borne out in his system by the Treasury Department—a pretty strong prop—and the bill had so far been impregnable; but in the present motion the gentleman was not sustained by any authority but his own suggestion; and Mr. B. hoped the Senate would unite with him in defeating the proposed amendment, which would reduce the compensation of an important office and a most worthy and distinguished Revolutionary veteran, which did not even now exceed two thousand dollars.

Mr. HOLMES would not dispute that every officer in Virginia was a distinguished man, a patriot, and a hero of the Revolution, and that Congress ought to be liberal in providing for them; but gentlemen had forgotten to remember that, what with liberality to one and another, we had been reduced to the necessity of borrowing money, and now were obliged to call on the liberality of our constituents to pay it. He would be as liberal as any man to the Revolutionary soldier, but this was not the time for liberality. That liberality had brought the nation into its present difficulties, and this was the time for retrenchment; and if the public exigencies could not be met by saving a thousand dollars here and a thousand there, we shall have either to lay taxes on our constituents, or borrow more. He spoke of the difficulty of retrenchment. If we propose to reduce the Army, the friends of the Army oppose it—if the Navy, the friends of the Navy oppose it—if the officers on the civil list, their friends oppose it. This officer must have

JANUARY, 1822.

Proceedings.

SENATE.

enough to pay for his wine, and that Revolutionary veteran be provided for; and all this must be paid by the farmer who never sees a glass of wine.

Mr. BARBOUR replied at some length. Among other things he adverted to the pension law of 1818, which he, with two or three others, opposed in vain. In zeal, in affection, in reverence, for the soldiers of the Revolution, he would yield to no man; but he foresaw that the act of 1818, providing for the Revolutionary soldiers, would let in hundreds and thousands not entitled to its benefits; and he had endeavored to stem the torrent when it was enacted; he was therefore not chargeable with any of the blame of that measure, which had so severely embarrassed the finances of the nation. He again urged, with much earnestness, the Revolutionary merits of the collector at Richmond (Major Gibbon) to prevent a reduction of his compensation.

Mr. MACON remarked, that the Senate were not now legislating for Revolutionary soldiers, but were fixing the compensation of a collector, and the man that fills the office ought to be thrown entirely out of the question; for, though the present officer was a Revolutionary soldier, his successor will not be, and the motive of course will fail, if any thing but the office be considered. This had been the uniform and correct practice of the Government, he said, and he cited instances in point.

Mr. D'WOLF was in favor of the amendment, for the reason that the second and third rate ports were better paid than the first rate, from the great inequality of the duties and responsibility. The first object of this bill was to save revenue, and the next to equalize the compensation of the officers of the customs. The justice of reducing the pay at Richmond, and raising it at Norfolk, was clear to him; and it was required by impartiality towards the officers of ports in the North, which had been equalized, and which he cited.

The question was taken on fixing the commission at Richmond at one and a half per cent., and carried—ayes 20, noes 18.

The Senate then proceeded with the remaining details of the bill, to which various amendments were proposed, and a discussion took place, which lasted till half past three o'clock, and in which Messrs. LLOYD, KNIGHT, HOLMES, of Maine, and OTIS, principally participated.

The most material of these motions was made by Mr. OTIS, to strike out of the 16th section the part which provides that "no collector, surveyor, or naval officer, shall ever receive more than \$4000 annually, exclusive of his compensation as collector, surveyor, or naval officer, and the fine and forfeitures allowed by law for any services he may perform for the United States in any other office or capacity."

The motion was much debated by the mover for, and Mr. HOLMES, of Maine, against it; and it was lost without a division.

Before the Senate had got through the bill, it was laid over until to-morrow.

On motion, the Senate adjourned until to-morrow.

WEDNESDAY, January 23.

The PRESIDENT communicated a letter from the Secretary of War, transmitting a statement prepared in conformity with the fifth section of the "Act to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," showing the expenditure of the moneys appropriated for the contingent expenses of the Military Establishment for the year 1821; and the letter and statement were read.

The PRESIDENT also communicated a letter from the Secretary of the Navy, transmitting a statement of the contracts made by the Commissioners of the Navy, during the year 1821; and the letter and statement were read.

Mr. PINKNEY presented the petition of John Gooding and James Williams, late owners of the private armed schooner "Midas," praying that they may be paid the bounty allowed by law to the owners of private armed vessels for the capture and delivery of prisoners, on twenty-two slaves that formed a part of the crew of the British privateer "Dash," captured in the year 1814, by the "Midas." The petition was read, and referred to the Committee on Naval Affairs.

Mr. FINDLAY presented the memorial of John Gilder, and others, a committee of superintendence of the East Florida Coffee Land Association, praying a grant of certain sections of land to enable them to carry into effect the objects of the association. The petition was read, and referred to the Committee on Public Lands.

Mr. KING, of New York, presented the petition of Alexander and Sylvester Humphrey, praying indemnification for damages to a wharf which they had contracted to build for the United States, on Staten Island, as stated in the petition; which was read, and referred to the Committee on Commerce and Manufactures.

Mr. SMITH, from the Committee on the Judiciary, to whom the subject was referred, reported a bill supplementary to an act, entitled "An act to alter the terms of the district court in Alabama." The bill was read, and passed to the second reading.

Mr. THOMAS, from the Committee on Public Lands, to whom was referred the bill for the relief of Richard Matson, reported the same with an amendment; which was read.

Mr. LOWRIE presented the memorial of William Corrie, in behalf of Adam Corrie, stating that lands which he had purchased from the United States had been reduced in value by the operation of the act of April 24th, 1820, and praying relief. The memorial was read, and referred to the Committee on Public Lands.

Agreeably to the order of the day, the Senate resumed the consideration of the motion of the 10th instant, respecting appropriations of territory for the purposes of education; and the further consideration thereof was postponed until Tuesday next.

On motion, by Mr. HOLMES, of Maine, the bill further to establish the compensation of officers of the customs, and to alter certain collection districts, and for other purposes, was recommitted to

SENATE.

Suppression of Piracy.

JANUARY, 1822.

the Committee on Finance, further to consider and report thereon.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Rebecca Hodgson; and the further consideration thereof was postponed until next Friday week, the 1st of February.

The Senate resumed the consideration of the motion of the 22d instant, for requesting the Secretary of State to transmit to the Senate the returns of manufacturing establishments, and manufactures, taken by the marshals; and the further consideration thereof was postponed until to-morrow.

The Senate resumed the consideration of the motion of the 22d instant, for instructing the Committee on Public Lands to inquire whether any further legislation be necessary to perfect the titles of lands which have been located, under the act of the 17th of February, 1815, "for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes," and agreed thereto.

The bill vesting in the respective States the right of the United States to all fines assessed for the non-performance of militia duty, during the last war, was read the second time; and referred to the Committee on Finance.

The bill to authorize the Commissioner of the General Land Office to remit the instalments due on certain lots in Shawneetown, in the State of Illinois was read the second time.

THE SUPPRESSION OF PIRACY.

Mr. JOHNSON, of Louisiana, submitted the following resolution for consideration:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of providing by law for the building of an additional number of sloops of war, for the protection of the commerce of the United States in the Gulf of Mexico; and into the propriety of employing one or more of the frigates or ships of war of the United States for the same purpose.

In offering this resolution, Mr. JOHNSON said, that he had introduced a proposition nearly similar in its character two years ago, but not having fully attained the object in view, he considered it his duty again to call the attention of the Senate to the subject. That an adequate naval force should be provided for the protection of our commerce in the Gulf of Mexico, and to prevent the violation of the revenue laws on the coasts of Louisiana and Florida, he presumed would not be denied. The Gulf of Mexico, he said, had, for a series of years, been infested by a horde of pirates, who had captured a great number of our vessels, and murdered the crews of many of them in the most shocking manner. The depredations of these freebooters had not been confined to the sea; they have also been engaged in smuggling goods, and introducing negroes into the State of Louisiana, in violation of the laws of the United States; and have even been so daring in their atrocities as to commit robberies in the interior of the country, and to carry off the property of the inhabitants. Those evils had prevailed to an alarming extent,

and called for the most prompt and energetic measures to arrest them. Notwithstanding, he said, the decisive steps recently adopted by the Government for the suppression of those pirates, and notwithstanding the achievements of our naval officers employed in that service, yet we hear almost every day of recent acts of piracy. By a letter from Havana, of the 22d of last month, we are informed that two American vessels had just been captured near the island of Cuba, by two piratical schooners, and barges, with thirty or forty armed men; that the pirates had robbed one of the vessels, and held a consultation whether they would not murder the crew: and that they stated to the crew, that they had the day before burnt the other, which was a brig from Baltimore, to the water's edge, after having robbed and murdered the crew. Do not these monstrous atrocities call for the exercise of more energy on the part of the Government? He said, that he was happy to perceive, that at length those depredations seemed to have aroused the indignation of the whole community; and, in fact, every part of the Union is equally interested in suppressing them. Mr. J. said, that it is not the commerce of the city of New Orleans, the great emporium of the West, that is alone exposed: but every vessel employed in the coasting trade is subjected to great risk. He made some remarks showing the exposed and defenceless situation of Louisiana. Of the immense revenue accruing to the United States, from the commerce of the city of New Orleans, and of the obligations of Government to protect it. He added, that it was extraordinary that more had not been done for the defence of the most exposed and important section of the Union. But he would admit, he said, that the most important fortifications for the defence of the country had been commenced under the direction of the President and Secretary of War, which had been suspended in consequence of Congress having refused to make the appropriation necessary to enable the agents of Government to comply with their contracts. But with respect to the pirates, he said, to enable the Government to act with effect, and to guard against the repetition of the evils which had occurred, an additional number of small vessels should be employed; and a few sloops of war should be placed under the immediate direction of the distinguished officer, (Commodore Patterson,) commanding the Orleans station. Mr. J. said that an able report on this subject, by Captain Ramage, of the Navy, who had made a survey of the coast, and charts of the Gulf of Mexico, had been laid before the Senate two years ago; that Congress then took the subject into consideration, and passed an act providing for the building of five small schooners for that service; not as many as was deemed essential by the Secretary of the Navy, or recommended by the report of Captain Ramage. But, he said, that the necessity for an additional number since that time had greatly increased. Mr. J. remarked, that several of the piratical vessels, before alluded to, had been seen at the Havana, and hovering around the Island of Cuba, and that there is every reason to believe that they were actually fitted out at the

JANUARY, 1822.

Proceedings.

SENATE.

Havana, and that the authorities there countenance the depredations committed by them. Is it not proper then, he asked, that one or more of our frigates, or ships of war, should be despatched to the Havana for the purpose of inquiring into this matter, and acting as circumstances may require? The appearance of several of our large vessels, among the West India Islands, would have the most happy effect. But, said Mr. J., the measures thus suggested cannot be adopted without legislative provision. He wished the subject, therefore, to be referred to the consideration of the Committee on Naval Affairs. Mr. J. concluded by observing that the distinguished gentlemen at the head of the Navy Department, had uniformly manifested a disposition to do all in their power to avert the evils complained of.

THURSDAY, January 24.

CÆSAR A. RODNEY, appointed a Senator by the Legislature of the State of Delaware for the term of six years, commencing on the fourth day of March last, attended, was qualified, and he took his seat in the Senate.

The PRESIDENT communicated a letter from the Secretary of the Navy, transmitting an abstract of the expenditures on account of the contingent expenses of the Navy, during the year ending on the 30th of September last; and the letter and abstract were read.

MR. HOLMES, of Maine, from the Committee on Finance, to whom was referred a memorial from the President and Directors of the Bank of the United States, reported a bill to amend the charter of the bank; (authorizing the bank to appoint an agent and a register to sign and countersign the notes of the bank, and making it penal for any of the officers or servants of the bank to defraud it or embezzle any of its funds or property.) The bill was passed to a second reading.

MR. THOMAS asked and obtained leave to introduce a bill to authorize the State of Illinois to open a canal through the public lands, to connect the Illinois river and Lake Michigan. The bill was read, and passed to the second reading.

MR. OTIS presented the petition of Walley and Foster, praying the benefit of drawback on pepper exported. The petition was read, and referred to the Committee on Finance.

MR. BARTON laid before the Senate sundry documents relating to claims to land in the State of Missouri; which were read, and referred to the Committee on Public Lands.

MR. D'Wolf presented the memorial of Nicholas Brown and others, inhabitants of Providence, Rhode Island, praying that cordage manufactured from foreign hemp may be entitled to the benefit of drawback, equal to the duty on hemp imported; and also the memorial of Edward Brinley, and others, merchants, ship owners, and manufacturers, of Newport, Rhode Island, praying that the benefit of drawback may be extended to cordage manufactured from foreign hemp. The memorials were read, and respectively referred to the Committee on Commerce and Manufactures.

MR. SMITH presented the petition of Henry J. Jones, of Charleston, South Carolina, praying to be released from the payment of a judgment obtained against him by the United States. The petition was read, and referred to the Committee on Finance.

MR. JOHNSON, of Kentucky, presented the memorial of George Shannon, of Lexington, Kentucky, praying an increase of pension. The petition was read, and referred to the Committee on Pensions.

MR. VAN BUREN presented the memorial of Henry W. Delavan and Company, merchants, of Albany, in the State of New York, engaged in the importation of goods from England, and various other parts of Europe, complaining of the operation of the act supplementary to an act, entitled "An act to regulate the collection of duties on imports and tonnage," praying that certain sums paid by them in accordance therewith may be refunded, and an amendment of said act, so as to protect the fair and honorable trader from its severe operations. The memorial was read, and referred to the Committee on Finance.

The Senate resumed the consideration of the motion of the 22d instant, for requesting the Secretary of State to transmit to the Senate the returns of manufacturing establishments and manufactures taken by the marshals, and agreed thereto.

A communication was laid before the Senate by the President, from the Secretary of State, transmitting the returns of the census, in Kershaw district, in South Carolina.

The bill supplementary to an act, entitled "An act to alter the terms of the district court in Alabama," was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill confirming the title of the Marquis de Maison Rouge; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill concerning the lands and salt springs to be granted to the State of Missouri for the purposes of education, and for other public uses; and the further consideration thereof was postponed until to-morrow.

The PRESIDENT communicated a letter from the Secretary of the Treasury, transmitting statements in conformity with the provisions of the act of 10th February, 1820, entitled "An act to provide for obtaining accurate statements of the foreign commerce of the United States," showing the commerce and navigation of the United States for the year ending the 30th of September, 1821; and the letter and statements were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, supplementary to the several acts for adjusting the claims to land, and establishing land offices, in the districts east of the island of New Orleans, together with the amendments reported thereto by the Committee on Public Lands; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

SENATE.

Grant of Land to Louisiana—Suppression of Piracy.

JANUARY, 1822.

The resolution proposing an amendment in relation to the election of Electors of President, &c., was on motion of Mr. DICKERSON, referred to a select committee, for the purpose of considering the amendment proposed thereto, when last under consideration; and Messrs. DICKERSON, LLOYD, BENTON, BROWN, of Ohio, and HOLMES, of Maine, were appointed on the committee.

Mr. MORRIL, from the Committee of Claims, reported a bill for the relief of Ebenezer Stevens; which was read.

The bill providing for the transfer of certain certificates, passed through a Committee of the Whole, (in which its object and necessity were explained by Mr. OTIS,) and was ordered a third reading.

GRANT OF LAND TO LOUISIANA.

The Senate then again resumed the consideration of the bill to grant to the State of Louisiana the pre-emption right to two tracts of land in the county of Point Coupee, for the use of the people of said county—an amendment being still pending, which had been heretofore offered by Mr. VAN DYKE, to convey the land to the State by gift instead of sale.

Much debate again took place on this subject, embracing chiefly the questions heretofore stated, and the question whether the land should be given or sold to the State. Messrs. BROWN, and JOHNSON, of Louisiana, spoke to show the necessity there was that the State should own the lands, and in favor of a decision without further delay, indifferent whether they were sold, or whether the pittance which they were worth should be granted gratuitously. Messrs. LLOYD, LANMAN, VAN DYKE, THOMAS, and CHANDLER, also joined in the debate. In the end,

The amendment proposed by Mr. VAN DYKE, was negatived—ayes 18, noes 24.

Mr. CHANDLER then moved to strike out the 2d section, which is in the following words:

SEC. 2. *And be it further enacted*, That all the right and claim of the United States to a tract of land in the county of Point Coupee, and State of Louisiana, containing forty arpents on the Mississippi river, and forty arpents back, at a remarkable bend in the river, about seven miles above the courthouse for said county, being the same on which the *Great Levee* is situated, be, and the same hereby is, vested in, and conveyed to, the Governor of the State of Louisiana, for the time being, and his successors in the same office, in trust and for the sole use and benefit of the people of the county of Point Coupee, forever, for the purpose of enabling them to repair and to keep up the said Levee, without molestation: *Provided, however*, That this act shall not affect the claim or claims of any individual or individuals, if any such there be.

Much debate followed on this motion, in which Messrs. MORRIL, CHANDLER, and LANMAN, supported, and Messrs. JOHNSON, of Louisiana, WALKER, BROWN, and OTIS, opposed the amendment. It was finally decided in the negative by the following vote:

YEAS—Messrs. Boardman, Chandler, Dickerson, Lanman, Macon, Morrill, Rodney, and Smith—8.

NAYS—Messrs. Barton, Benton, Brown of Louisiana, Brown of Ohio, D'Wolf, Eaton, Edwards, Elliott,

Findlay, Gaillard, Holmes of Maine, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of New York, Knight, Lloyd, Lowrie, Mills, Noble, Otis, Parrott, Pleasants, Ruggles, Seymour, Southard, Stokes, Talbot, Taylor, Thomas, Van Buren, Van Dyke, Walker, Ware, Williams of Mississippi, and Williams of Tennessee—36.

The bill was then ordered to be engrossed for a third reading.

SUPPRESSION OF PIRACY.

The following resolution, offered yesterday by Mr. JOHNSON, of Louisiana, was taken up for consideration:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of providing by law for the building of an additional number of sloops of war, for the protection of the commerce of the United States in the Gulf of Mexico; and into the propriety of employing one or more of the frigates or ships of war of the United States for the same purpose.

Mr. PLEASANTS thought the designation of sloops of war would confine the scope of the inquiry within too narrow limits, particularly as he presumed a smaller class of vessels would be more suitable for the object in view. He should prefer an inquiry into the expediency of building an additional number of small vessels of war, without designating the size. Mr. P. had an objection, also, to the latter part of the resolution, which directs that a part of the naval force be employed in a particular service; because it would be interfering with the proper action of the Executive authority, whose province it is to direct in what manner the naval force shall be employed. Mr. P. moved to amend the resolution conformably to the ideas he had suggested.

Mr. JOHNSON, of Louisiana, had no objection to the first modification, to substitute "small vessels" for "sloops of war;" but, as to the second proposition, he was not so certain of its propriety, inasmuch as if it was deemed proper to employ a part of the naval force on this special service, an appropriation would be necessary to carry the object into effect.

Mr. PLEASANTS remarked, that the President of the United States had the power of employing the naval force in any manner he might think proper; and if an extraordinary service of any part of the Navy was deemed necessary, by any gentleman, the proper time for the inquiry would be when the annual appropriation for the naval service comes under consideration.

Mr. JOHNSON said, as the chairman of the Naval Committee seemed to think the object could be attained without embracing it in the present inquiry, he would assent to the amendments proposed.

Mr. D'WOLF observed, that five or six additional small vessels were certainly very much wanted to protect the commerce of the nation on the coast of Cuba, and elsewhere among the islands; but, as the expediency of increasing the Navy by building additional vessels might be doubted, and as a sufficient number of suitable vessels might at pres-

JANUARY, 1822.

Proceedings.

SENATE.

ent very probably be purchased, he suggested the propriety of changing the inquiry into one for providing by purchase an additional number of small vessels.

Mr. OTIS suggested the propriety of simplifying the resolution into an inquiry of providing by purchase or otherwise, an additional number of small vessels "for the better protection of the commerce of the United States." An expression of the object in terms so general as this, he thought would not trench on the province of the Executive.

Mr. JOHNSON, for the purpose of accommodating the views of the different gentlemen, while it would answer the object he had in view, modified his motion to read as follows:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of providing by law for the building or purchase of an additional number of small vessels of war, for the protection of the commerce of the United States.

In this form the resolution was agreed to.

FRIDAY, January 25.

The Senate assembled; and, the Vice President being absent, from indisposition, adjourned to 12 o'clock to-morrow.

SATURDAY, January 26.

Mr. FINDLAY presented the petition of Andrew Mitchell, of Pennsylvania, praying to have refunded to him a sum paid for a license to distil spirituous liquors. The petition was read, and referred to the Committee of Claims.

Mr. RUGGLES submitted the following motion for consideration:

Resolved, That the President of the United States be requested to cause to be laid before the Senate, if within his possession, the number of officers and soldiers who served in the Revolutionary war, from the State of Virginia, on continental establishment; the quantity of land allowed to each officer and soldier, by any resolution or law of Virginia, and the aggregate amount of the quantity so granted; also, the quantity of land for which warrants have issued, and which have been located, and patents issued to said officers and soldiers, or their assignees, upon the waters of Cumberland river, and between the Green river and the Tennessee river, in the State of Kentucky; the deficiency of good land in the said tract, reported by the agents of the said officers and soldiers to the Executive of Virginia, to satisfy their warrants; and also the quantity of land for which warrants have issued, and which have been located, and patents issued to said officers and soldiers or their assignees, between the Scioto and Little Miami rivers, in the State of Ohio.

Mr. THOMAS, from the Committee on Public Lands, to whom was referred the bill to provide for paying the State of Mississippi three per cent. of the net proceeds arising from the sales of the public lands within the same; and also the bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within

the same," reported them respectively without amendment.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the memorial of the trustees of the Transylvania University, praying for a repeal of the duties on books imported into the United States; and, on motion, by Mr. PLEASANTS, the further consideration thereof was postponed until the second Monday in February next.

MONDAY, January 28.

Mr. HOLMES, of Maine, from the Committee on Finance, to whom was recommitted the bill further to establish the compensations of the officers of the customs, and to alter certain collection districts, and for other purposes, reported the same with amendments, which were read; and the bill, as amended, was ordered to be printed for the use of the Senate, and made the order of the day for to-morrow.

The PRESIDENT communicated a letter from the Commissioner of the General Land Office, transmitting a report of the commissioners at St. Helena, on land claims; and the letter and report were read.

Mr. VAN DYKE laid before the Senate the resolutions of the Legislature of the State of Delaware, requesting their Senators and Representatives in Congress to use their endeavors to procure the passage of an act for the appropriation of the public lands for the purposes of education; and the resolutions were read.

Mr. EATON, from the Committee on Finance, to whom was referred the petition of William Nott, and others, syndics of the creditors of George T. Phillips, late of New Orleans, merchant, made a report, accompanied by a resolution, that the prayer ought not to be granted.

Mr. EATON, from the Committee on Public Lands, to whom was referred the petition of William Doak, of Tennessee, praying the right of pre-emption to a tract of land; and also the petition of Noble Osborn, praying the right of pre-emption, made a report, accompanied by a bill granting the right of pre-emption to Noble Osborn and William Doak. The report and bill were read, and bill passed to the second reading.

Mr. NOBLE submitted the following motion for consideration:

Resolved, That the Secretary of War be directed to lay before the Senate a statement showing the number of persons placed on the pension roll by virtue of the act, entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war," passed the 18th day of March, 1818; and the number of persons placed on the pension roll under the act of Congress of the 1st day of May, 1820; and also the number rejected under the provisions of the last recited act, and stricken from the pension roll, which were placed thereon under the act first above recited.

Mr. WARE laid before the Senate the resolutions of the Legislature of the State of Georgia, requesting that provision may be made for holding a trea-

SENATE.

Proceedings.

JANUARY, 1822.

ty with the Cherokee Nation of Indians, for certain purposes stated in the resolutions; which were read.

Mr. CHANDLER submitted the following motion for consideration:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of erecting a military road from the town of Anson, in Maine, up the Kennebec river, to some point on the line between the State of Maine and the province of Lower Canada; and another military road from the town of Bangor, in Maine, to some point on the line between the State of Maine and the province of New Brunswick.

Mr. CHANDLER presented the petition of A. Mason, and others, praying a certain post route. The petition was read, and referred to the Committee on the Post Office and Post Roads.

The Senate resumed the bill confirming the title of the Marquis De Maison Rouge; and the further consideration thereof was postponed to and made the order of the day for to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill supplementary to the several acts for adjusting the claims to lands, and establishing land offices in the districts east of the Island of New Orleans; and the further consideration thereof was postponed to and made the order of the day for Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of the heirs and representatives of Alexander Montgomery; and the same having been amended, it was recommitted to the Committee on Public Lands.

The Senate resumed, as in Committee of the Whole, the bill entitled "An act for the relief of Isaac Finch;" and no amendment having been made thereto, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to revive and continue in force an act, entitled 'An act to provide for the persons who were disabled by known wounds received in the Revolutionary war,'" and no amendment having been made thereto, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of James H. Clark; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Richard Matson, together with the amendment reported thereto by the Committee on Public Lands; and the same having been agreed to, the bill was reported to the House amended accordingly, and ordered to be engrossed, and read a third time.

On motion, by Mr. OTIS,

Ordered, That five hundred copies of the report of the Secretary of the Treasury, in conformity with the provisions of the act of the 10th of February, 1820, entitled, "An act to provide for obtaining accurate statements of the foreign com-

merce of the United States, showing the commerce and navigation of the United States for the year ending the 30th of September, 1821," be printed for the use of the Senate.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the Commissioner of the General Land Office to remit the instalments due on certain lots in Shawneetown, in the State of Illinois; and no amendment having been made thereto, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for paying to the State of Mississippi three per cent. of the net proceeds arising from the sales of the public lands within the same; and no amendment having been made thereto, it was reported to the House, and ordered to be engrossed, and read a third time.

Mr. WALKER gave notice that, to-morrow, he should ask leave to introduce a bill to provide for paying to the State of Alabama three per cent. of the net proceeds arising from the sale of the public lands within the same.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same; and, on motion by Mr. KING, it was recommitted to the Committee on Public Lands, with instructions to incorporate the several bills relating to the same subject.

Mr. HOLMES, of Maine, submitted the following motion for consideration:

Resolved, That the Secretary of the Treasury be directed to transmit to the Senate a list of the revenue bonds, taken by the several collectors of the customs, which now remain unpaid, with the names, dates, and times, they respectively were, or shall become payable.

The bill authorizing the transfer of certain certificates of the debt of the United States was read the third time, passed, and sent to the other House for concurrence.

The bill to authorize the State of Illinois to open a canal through the public lands, to connect the waters of Lake Michigan and the Illinois river, was read the second time; and, on motion of Mr. BENTON, referred to the Committee on Public Lands.

The bill to amend the charter of the Bank of the United States, and the bill for the relief of Ebenezer Stevens, were severally read a second time, and referred.

The Senate took up, as in Committee of the Whole, the bill concerning the lands and salt springs to be granted to the State of Missouri for the purpose of education, and for other public uses.

Some modification of its provisions was made in Committee, without debate; the most material of which was to insert a provision in the fifth section, subjecting the grant to the conditions and restrictions contained in the act of Congress of the 6th of March, 1820.

JANUARY, 1822.

Virginia Land Warrants.

SENATE.

The bill, thus amended, was ordered to be engrossed for a third reading.

The bill supplementary to an act to alter the terms of the district courts of Alabama, was considered in Committee of the Whole, and was ordered to be engrossed and read a third time.

ALLOWANCE OF DRAWBACKS.

Mr. D'WOLF submitted the following resolution for consideration :

Resolved, That the Committee on Commerce and Manufactures be instructed to report a bill for allowing drawbacks on merchandise exported, which shall be manufactured from foreign materials, to amount of the duties on such materials.

Mr. D'WOLF made a speech of considerable length, explanatory of his views in offering the resolution ; embracing a variety of practical statements of the course of trade, to show the advantage which would accrue to the revenue by extending the benefit of drawbacks, inasmuch as it would encourage internal industry and exportation ; urging the expediency of adopting such measures as would tend to diminish the existing inequality in the amount of imports and exports, as detrimental to the public interest as it always is to the interest of a private individual to buy more than he sells, &c.

Mr. DICKERSON, without inquiring into the merits of the proposition, would merely observe that he should consider any bill which might grow out of the resolution, in the nature of a revenue bill, and, as such, it would be improper to originate in the Senate.

Mr. D'WOLF observed, that, if a bill on this subject could be considered a revenue bill, then the Senate could originate no measure for the regulation of trade ; for this would be nothing more ; it proposed no tax, or impost by which revenue could be raised, and, therefore, he considered it not liable to the objection made to it.

The resolution lies on the table one day, of course.

VIRGINIA LAND WARRANTS.

The Senate took up the resolution submitted by Mr. RUGGLES, on Saturday, requesting of the President of the United States certain information relative to the lands granted and located by patents to the Revolutionary officers and soldiers of the Virginia line, in the reservations in the States of Kentucky and Ohio.

Mr. RUGGLES offered a few remarks in explanation of the object of this resolution. He said it would be recollected that, in the year 1784, the State of Virginia ceded all her vacant and unappropriated lands northwest of the Ohio river, to the United States. Attached to this cession were certain conditions, one of which was, that, in case the quantity of good land on the southeast side of the Ohio, upon the waters of Cumberland river, and between the Green and Tennessee rivers, should prove insufficient to satisfy the legal bounties which had been engaged to the troops of Virginia on Continental Establishment, then the deficiency should be made to the said troops in good

land, between the Scioto and Little Miami rivers, on the northwest side of the river Ohio. In a short time after this cession was made, the holders of those soldiers' warrants commenced locating them on the tract of land conditionally reserved northwest of the Ohio river, without any information having been given to the Executive of the United States or Congress, that a deficiency on the waters of Cumberland river existed. Congress, by a resolution in 1788, put a stop to this proceeding, by declaring all such surveys and locations invalid, until correct measures should be taken to ascertain the fact that a deficiency had really occurred. The Governor of Virginia was then requested to ascertain and communicate this information to the General Government, in order to enable them to carry into effect the stipulations in the act of cession, according to the true intent and meaning of the parties. Afterwards, the agents of the officers and soldiers did report to the Governor of Virginia that there was not a sufficient quantity of good land to meet the engagements of the State, on the southwest side of the Ohio river ; upon which information they were authorized by Congress to locate the remainder of the warrants upon the tract conditionally reserved between the Scioto and Little Miami rivers. Mr. R. said this was a plain history of the proceeding as it had occurred. His object in calling for the information contained in the resolution, was to ascertain whether the contract between the United States and the State of Virginia had been fairly executed, and whether any fraud had been committed in the issuing of the warrants, or in the location of them. Mr. R. said he was far from imputing any misconduct or blame to the State of Virginia, or any officer acting under the authority of her laws. It was, however, a fact, that it had taken much more land to satisfy those warrants than was ever anticipated, and almost the whole district of country between the Scioto and Little Miami rivers had been covered with them. If the information sought for by this resolution can be furnished, it can be easily ascertained whether fraud has been committed or injustice practised. A report of the number of officers and soldiers who served in the Revolutionary war, from Virginia, on Continental Establishment, together with the quantity of land allowed to each of them, will show the whole amount to which they were entitled. A statement of the quantity of land that was covered with warrants, on the waters of Cumberland river, when the agents of the officers and soldiers reported to the Executive of Virginia the deficiency that existed, will determine the quantity to which they were entitled northwest of the Ohio river, and between the Scioto and Little Miami rivers. Mr. R. said he considered this information not only very desirable but of great importance. He could not say that the President of the United States could furnish all that was called for, but he believed sufficient could be obtained to meet the objects he had in view.

Mr. PLEASANTS knew of no objection to the resolution ; but as it was one of an important bearing, and was long, he should like an opportunity

SENATE.

Proceedings.

JANUARY, 1822.

of examining it further, to see if any modification of its form or spirit were necessary.

The resolution was postponed until to-morrow.

TUESDAY, January 29.

Mr. SMITH presented the petition of Thomas W. Bacot, postmaster at Charleston, South Carolina, praying reimbursement of certain expenses incurred by him in procuring the apprehension of a person convicted of robbing the mail, who had escaped from jail; the petition was read, and referred to the Committee on the Post Office and Post Roads.

Mr. RODNEY presented the petition of Daniel Carroll, of Duddington, and others, proprietors of the house occupied by the Senate and House of Representatives, during the 14th and 15th Congresses, praying that the damages which the house sustained during the said occupancy may be repaired. The petition was read, and referred to the Committee of Claims.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of the President and Directors of the Planters' Bank of New Orleans, made a report, accompanied by a bill for the relief of the President and Directors of the Planters' Bank of New Orleans; the report and bill were read; and the bill passed to the second reading.

Mr. THOMAS, from the Committee on Public Lands, to whom was referred the memorial of William Corrie, in behalf of Adam Corrie, made a report, accompanied by a resolution, that the prayer of the memorialist ought not to be granted.

Mr. ELLIOTT gave notice that to-morrow he should ask leave to introduce a bill to continue in force "An act declaring the consent of Congress to the act of the State of South Carolina, authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports; and to acts of the State of Georgia, authorizing the imposition and collection of a duty on tonnage of vessels in the ports of Savannah and St. Mary's."

The PRESIDENT communicated a letter from the Secretary of War, transmitting statements exhibiting the contracts which were made by the Quartermaster General, Commissary General of Subsistence, the Ordnance department, the Commissary General of Purchases, and the Engineer department, in the year 1821; and the letter and statements were read.

The bill concerning the lands and salt springs to be granted to the State of Missouri for the purposes of education, and for other public uses, was read a third time, and passed.

The bill to authorize the Commissioner of the General Land Office to remit the instalments due on certain lots in Shawneetown, in the State of Illinois, was read a third time, and passed.

The bill granting to the Governor of the State of Louisiana, for the time being, and his successors in office, two tracts of land in the county of Point Coupee, was read a third time; and, on the question, "Shall this bill pass?" it was deter-

mined in the affirmative—yeas 34, nays 7, as follows:

YEAS.—Messrs. Barton, Benton, Brown of Louisiana, Brown of Ohio, D'Wolf, Eaton, Edwards, Elliott, Findlay, Gaillard, Holmes of Maine, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Lowrie, Mills, Noble, Otis, Palmer, Parrott, Pinkney, Pleasants, Rodney, Ruggles, Seymour, Southard, Stokes, Talbot, Thomas, Van Dyke, Walker, Ware, and Williams of Mississippi.

NAYS.—Messrs. Chandler, Dickerson, Knight, Lanman, Macon, Morril, and Smith.

So it was *Resolved*, That this bill pass, and that the title thereof be "An act granting to the Governor of the State of Louisiana, for the time being, and his successors in office, two tracts of land in the county of Point Coupee."

The bill supplementary to an act, entitled "An act to alter the terms of the district court in Alabama," was read a third time, and passed.

Resolved, That this bill pass, and that the title thereof be "An act supplementary to an act, entitled 'An act to alter the terms of the district court in Alabama.'"

The bill for the relief of Richard Matson was read a third time, and passed.

The bill entitled "An act for the relief of Isaac Finch," was read a third time, and passed.

The bill entitled "An act to revive and continue in force an act, entitled 'An act to provide for persons who were disabled by known wounds received in the Revolutionary war,'" was read a third time, and passed.

Mr. TALBOT presented the petition of James Wier, praying indemnification for damages on certain protested bills on the Paymaster General, as stated in the petition; which was read, and referred to the Committee on Claims.

On motion, by Mr. NOBLE, the Committee on Pensions, to whom was referred the petition of James Conant; the petition of Thomas Mullett; the petition of Stephen Shattuck; the petition of William Russell; the petition of Eldad Parsons; and, also, the petition of Thaddeus Gilbert, was discharged from the further consideration thereof, respectively, and the petition of John Spurr, and, also, the petition of Abijah Fuller, were respectively laid on the table.

The Senate resumed the consideration of the motion of the 26th instant, requesting of the President of the United States certain information relative to the lands granted and located by patents to the Revolutionary officers and soldiers of the Virginia line, in the reservations in the States of Kentucky and Ohio; and agreed thereto.

The Senate resumed the consideration of the motion of the 28th instant, calling on the Secretary of War, for certain information relating to certain pensioners; and agreed thereto.

On motion, by Mr. WILLIAMS, of Mississippi, the bill to provide for paying to the State of Mississippi three per cent. of the net proceeds arising from the sales of the public lands within the same, was recommitted to the Committee on Public Lands, further to consider and report thereon.

JANUARY, 1822.

Military Roads.

SENATE.

The Senate resumed the consideration of the motion of the 28th instant, for directing the Secretary of the Treasury to transmit to the Senate a list of the revenue bonds remaining unpaid; and the same having been modified, was agreed to as follows:

Resolved, That the Secretary of the Treasury be directed to transmit to the Senate an abstract of all bonds for duties on merchandise imported into the United States, which shall have become payable and remain unpaid between the 30th September, 1819, and the 30th September, 1821; exhibiting in such abstract the date of each bond, and the time in which it became payable, its amount, names of the obligors and sureties, and the districts of the customs in which, and the names of the collectors by whom, taken; designating those which are good, doubtful, or desperate, and such as are in suit, judgment, or execution; and, also, the sums which have been paid, and by whom, on bonds due on said 30th September, 1819.

The bill granting a right of pre-emption to Noble Osborne and William Doak was read the second time.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of William Nott, and others; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to establish the compensation of officers of the customs, and to alter certain collection districts, and for other purposes, together with the amendments reported thereto by the Committee on Finance; and, on motion, by Mr. HOLMES, of Maine, the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill confirming the title of the Marquis de Maison Rouge; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The resolution yesterday submitted by Mr. D'WOLF, was next taken up.

Mr. MACON suggested to the mover the propriety of so modifying the motion, as to direct the committee to inquire into the expediency of the measure relative to drawbacks, instead of a positive instruction to report a bill.

Mr. D'WOLF said his object was, by the shape of the resolution, to elicit a discussion of the subject in the Senate, instead of in the select committee, and to ascertain the sense of the Senate on it; but he was not tenacious of the mode of attaining his object, and therefore varied his resolution as suggested.

The resolution was further modified, by expunging the amount of drawback proposed; and, thus amended, was agreed to.

The Senate took up for consideration the bill to amend the charter of the Bank of the United States; when, on motion of Mr. FINDLAY, who remarked, that he perceived the bill did not provide for all the objects prayed for by the bank, which, indeed, he did not know it would be proper

to grant, as he had not given much attention to the subject, but, wishing time to examine it, it was postponed to Tuesday next.

The Senate spent some time in the consideration of the bill for the relief of Ebenezer Stevens, and others, the representatives of Richardson Sands, Comfort Sands, &c. [A Revolutionary claim, heretofore often before Congress.]

Mr. MORRIL gave a history of the claim, and the facts submitted to the committee in relation to it; and concluded with a motion to recommit the bill, with instructions so to amend it as to raise the sum proposed to what he deemed sheer justice, to the parties, required the Government to pay to them. The motion to recommit was lost.

Mr. LANMAN moved an amendment, the effect of which was to withhold the payment of interest. After considerable discussion, in which Messrs. LANMAN, MORRIL, KING, of New York, and LOWRIE, took part; but, before any question was taken, the bill was postponed, to give time to examine into the facts of the case.

Mr. WALKER, having obtained leave, introduced a bill to provide for paying to the State of Alabama three per cent. of the net proceeds of the sales of the public lands in said State; which was twice read, and referred.

Mr. HOLMES, of Maine, laid before the Senate a report, and sundry resolutions adopted by the Legislature of that State, favorable to the Maryland proposition relative to the grant of public lands to the old States, for the purposes of education; and the document was read.

MILITARY ROADS.

The resolution offered yesterday by Mr. CHANDLER, proposing an inquiry into the expediency of making two military roads from the State of Maine to the British line, was next taken up; and some opposition being manifested to it—

Mr. CHANDLER briefly explained the importance which the proposed roads would be in a national point of view, and which might be easily constructed by the troops now in service.

Mr. HOLMES, of Maine, gave a description of the country referred to, to show the value which these roads would be for military purposes, if the country should ever again be involved in war with the same nation with which it was recently engaged in hostilities, and there was little probability of a war with any other Power. These preparations ought to be made in time of peace. He remarked, moreover, that the General Government had never been called on before to expend any of the public money in the State of Maine, or for her use, and he hoped the resolution would pass.

Mr. MACON said, the two gentlemen did not exactly agree. One of them asked for the road because he deemed it necessary, the other because none of the public money had yet been spent in the State of Maine. The State of North Carolina might ask some public improvement with the same justice; for there had been precious little money expended in that State. But, said Mr. M., we do not ask Congress to spend the public money in our State; all we ask is, that you do not take our mo-

SENATE.

Officers of the Customs.

JANUARY, 1822.

ney and spend it elsewhere. As to preparing for war, he said, there was no danger that a free people will ever be unprepared for it; the danger was that they would be too well prepared for it, and too ready to engage in it; for it seemed to him that free government had the same effect on the human constitution as heat had on iron—it made it swell. Commence these roads, and there is no telling where it will end; for legislation might be compared to shingling a house—the first row is useless unless you go on, lapping one row over another to the top. It will prove just so with appropriations for roads, if they are once begun.

Mr. HOLMES would apply to Mr. MACON's simile the story of a man who lived in a house open at the top; a neighbor called in one day while it was raining, and the owner exposed to the weather, and asked him why he did not shingle his house? Would you, he answered, have me shingle it while it is raining? No. Well, then, said he, in dry weather it don't want shingling. So the house went without it altogether.

Was not that man, rejoined Mr. MACON, a long lived one?

Mr. CHANDLER, to continue the simile, said it would be strange in this case, if they refused to inquire whether the house wanted shingling, when the fact was stated, and the inquiry only proposed.

The resolution was agreed to—18 to 10.

WEDNESDAY, January 30.

Mr. RUGGLES submitted the following motion for consideration:

Resolved, That the President of the United States be requested to cause to be laid before the Senate copies of such leases or contracts as may have been agreed upon and entered into between him and the owners of the new building on Capitol Hill, for the use and accommodation of Congress under the act of the 8th of December, 1815.

Mr. BROWN, of Ohio, presented the petition of John H. Piatt, praying relief in the settlement of his accounts. The petition was read, and referred to the Committee of Claims.

Mr. SOUTHARD presented the petition of Amos Potter, and others, in behalf of Daniel Lacy, a pauper, praying a pension. The petition was read, and referred to the Committee on Pensions.

On motion, by Mr. NOBLE, the Committee on Pensions, to whom was referred the petition of Joseph Brown, of Kentucky, were discharged from the further consideration thereof, and the petitioner had leave to withdraw his petition and papers.

The bill for the relief of the President and Directors of the Planters' Bank of New Orleans was read the second time.

The Senate resumed the consideration of the motion of the 10th instant for appropriations of territory for the purposes of education, and the further consideration thereof was postponed until Monday next.

Mr. THOMAS, from the Committee on Public Lands, to whom was referred the petition of the Mayor, Aldermen, and inhabitants, of the city of

New Orleans, made a report, accompanied by a bill supplemental to an act entitled "An act authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile;" the report and bill were read, and the bill passed to the second reading.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of William Nott, and others; and the further consideration thereof was postponed until Friday next.

Mr. ELLIOTT asked and obtained leave to introduce a bill to continue in force "An act declaring the consent of Congress to acts of the State of South Carolina, authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports; and to acts of the State of Georgia, authorizing the imposition and collection of a duty on the tonnage of vessels in the ports of Savannah and St. Mary's;" the bill was read; and passed to the second reading.

The Senate resumed the consideration of the report of the Committee on Public Lands, to whom was referred the memorial of William Corrie, in behalf of Adam Corrie; and, in concurrence therewith, resolved that the prayer of the memorialist ought not to be granted.

OFFICERS OF THE CUSTOMS.

The Senate then resumed in Committee of the Whole, the consideration of the bill further to establish the compensation of the Collectors of the Customs, &c., and the amendments reported thereto by the Committee on Finance. [These amendments were numerous, but embraced principally modifications of detail, and regulations of the pay of weighers, gaugers, inspectors, &c.]

Mr. HOLMES spoke as follows: On the subject, said Mr. H., of the compensation in the large ports, the committee adopted the rule to diminish the percentage on the commissions so low, that the emoluments would not exceed four thousand dollars and expenses. To fix the compensation of a collector, so that it would neither exceed nor fall short of a particular sum, as had been suggested by some gentlemen, would be making them all *salary officers*. This would be a new and extraordinary principle. The officer would have no interest in the amount of revenue collected—no inducement to economy. He would consult his ease at the public expense; multiply officers, careless of the necessity, and become indifferent and neglectful of the amount of the customs, in which his interest was no way concerned.

It is apprehended that the per centage is reduced so low in some of the ports, that the fees and commissions will not, after deducting the expenses, secure the officer four thousand dollars. Upon a revision of the bill, the committee were apprehensive that in the district of Philadelphia such might be the result, and have therefore left that as before. New York is an important district, and the collector there ought to be pretty sure of his maximum; of this, with the economy which he can and ought to practise, we have no doubt. The law made a deputy a substitute for the collector

JANUARY, 1822.

Officers of the Customs.

SENATE.

in cases only "of sickness or occasional and necessary absence;" but the collectors themselves have made them permanent officers, with a salary, in some instances, of three thousand dollars per year. This sum, it is understood, is allowed in New York. This bill limits the compensation to one thousand five hundred. Other improvements in the clerk hire, stationery, office rent, and contingent expenses, will much diminish the expenses of that port. Taking the return of the year 1819, the emoluments, as reduced by this bill, will yield to that officer a clear income of \$6,441; by that of the year 1820, it would not exceed \$2,628; making an average of \$4,034. But it must be recollected, that in this last year a new collector was appointed, and a moiety of the commissions due on outstanding bonds goes to his predecessor, which hitherto diminished, but will not hereafter diminish, his compensation.

On the whole, from a diminution of the expense which this bill will effect, and the constant increase of the commerce of that port, no possible doubt can exist that the rate of one-sixth of one per cent. established by the bill, will amply secure the collector to the extent of his maximum.

As to Boston, the extravagances in that district are so great that even a greater diminution might have been safely allowed. According to the officers' returns for several successive years, the diminution which we effect by a single reduction in the office of deputy, will leave the collector a sum above the maximum established by the bill. By the last returns the collector of New Orleans is sure of his \$4,000, without considering any deductions at all; and as the other districts, classed among the large ports, have not arrived at the sum limited, they consequently cannot yet be affected by it.

The reduction from \$5,000 to \$4,000, in the large ports, has produced much opposition. Of the propriety of the measure your committee could entertain no doubt. \$4,000 with a share in fines and forfeitures, and a right to receive \$400 as agents for lighthouses, &c., is a greater compensation than you give to the Chief Justice of the United States, and a better living than you give any other officer in the Government, the President excepted. The office is responsible, to be sure, and in some degree arduous. But the judge, the member of Congress, the ambassador, must leave his friends, his family, his country, and endure a banishment, as the price of his reward. The collector enjoys the fruits of his labor at his own fire-side, and in the bosom of his own family. Sir, let these men resign, by reason of this reduction, and you will find thousands of the best men in the nation ready to step into their shoes. Amidst all our professions for economy and retrenchment, should we not blush to tell the people that a collector of their revenue, in these times of depression, cannot live, at home, for five thousand a year; and, unless we give him more, he will carve for himself!

It has been remarked, said Mr. H., in discussing another part of this bill, that the office of deputy collector, as established by law, was occasional

and temporary. Practice has, however, made it permanent, and fixed to it a permanent salary. The collector appoints the deputy, and fixes his pay. But his compensation is paid by the collector, unless there is a surplus in his hands after he receives his ultimate sum—then it is at the expense of the United States. If the collector's emoluments are \$30,000, of which he can retain \$4,000 only, the residue, after deducting expenses of clerk hire, stationery, &c., goes into the Treasury. This clerk hire, sir, has hitherto been at the entire discretion of the collectors, and their vouchers of payment have, at the Treasury, been allowed without an inquiry into the economy of the expenditure. Hence high salaries to deputies, to relieve collectors of their duties, and extravagant expenditures for clerks and stationery, to accommodate relations and friends. Such has been the practice under the law, that the Secretary doubts his authority to go behind the collector's vouchers to settle his accounts; consequently, the collectors in the large ports, whose emoluments exceed their maximum, may lavish the surplus on whom they please. The necessity and importunity of friends and relatives is a temptation too great, even for a prudent man, to resist, and the prodigal expenditure of the public money has been the inevitable consequence. By the report of the Secretary, made on the 8th December, 1820, it appears that the clerk hire for 1819 was, in Philadelphia, \$15,779 14, and that in New York, \$15,766 22—while the stationery of the former place was \$546 38, and that of the latter \$1,978 55; and when in New York the revenue collected was \$8,068,851 39, and in Philadelphia \$4,950,888 00. The clerk hire in Boston was, during the same period, nearly as extravagant as that of Philadelphia. The disproportion which the stationery and clerk hire bear to each other in the different ports, shows a wanton prodigality somewhere, and perhaps every where. The truth is, it is imprudent and dangerous to repose this confidence in these men, and, therefore, the bill requires a rigid scrutiny at the Department of the Treasury.

On the amendment which proposed to increase the salary of the collector of Wilmington, in Delaware, Mr. H. observed the committee have found, upon examination, that the collector's services are more than commensurate to his legal compensation. In his annual return of his emoluments, this man, who is understood to be a faithful officer, has charged from \$400 to \$900 annually, under the name of official and contingent expenses. This is not permitted by any existing law; it is an abuse which has become pretty general, and, where the emoluments approach a fixed maximum, goes to take from the Treasury, by indefinite and illegal charges. By this bill these abuses are cut up by the roots; and these deductions, from the compensation of this officer, will render it necessary that his salary should be increased to the sum limited in the bill.

The sections abolishing the offices of weighers, gaugers, &c., and transferring their duties to inspectors, being under consideration, Mr. H. observed, on the 9th December, 1820, the Secretary

SENATE.

Officers of the Customs.

JANUARY, 1822.

of the Treasury, in obedience to a resolution of the House of Representatives of the 15th May, of the same year, made a report of the offices in the customs, which might be abolished. (Here Mr. H. read the report.) By this it appears that the Secretary was willing to dispense with not only several districts and ports of delivery, and their officers, but with all the weighers, gaugers, measurers, and markers, whose annual aggregate compensation is not less than \$100,000. It is believed that this might be done by the inspectors without increasing their number, and without the ungrateful task of removals. The committee sent for the Secretary, and inquired whether these offices might safely be abolished, and, if so, why so many inspectors had been retained at such an expense, if, with their present number and pay, they can perform this additional service?

His answers were, that the present inspectors were amply sufficient; that the number had been increasing, from the representations of collectors, at the solicitation of friends; that many of them were old and destitute, and that it would be better to increase their labor than diminish their number. It is, moreover, apparent, that in many ports inspectors perform these services, and receive the pay, in addition to their per diem allowance. Instances are not few, in which these inspectors have charged the United States three dollars a day for every day in the year, and during the same period have received compensation in these offices of weighers, gaugers, &c., equal to the best salaries.

It appears by a report of the Secretary, in obedience to a resolution of the House of Representatives of the 19th January, 1821, that, in the district of Boston and Charlestown, there were six inspectors, who had received their three dollars per day for every day in the year, not omitting the additional day for leap year during the same period; and found means to obtain, in these other capacities, about three thousand dollars more; each receiving from your Treasury an annual compensation of between four and five thousand dollars, and this not limited to one particular year, but an average for several years in succession.

So prompt were these men at their duty—or rather at their charging—that in this same place, among this moral and religious people, there were ten inspectors, who never found an opportunity to be absent at church for one single day in four years, and never lost a day by sickness during the same period; similar facts, too, in New York indicate that *there*, there is great punctuality in charging Sundays and all, and that, among inspectors, there is much stronger evidence of health than worship. In Philadelphia, the extravagance in clerk hire has lately been corrected, but the same prodigality exists in those subordinate offices. The compensations to a single weigher at that post, and who I believe is a son of the collector, are reported by the Treasury Department as follows: in 1816, \$6,405; 1817, \$7,804 43; 1818, \$5,313 14; 1819, \$5,602 01; and 1820, \$5,202 45. If in one port the duties of one description of office can be heaped upon the shoulders of one favorite,

and in another some four or five different offices can converge to the use of another, there must be a radical defect in the system or a gross prodigality and infidelity in the officers of the customs who have the immediate control. These instances only are cited to point out the mischiefs, yet the evil is by no means limited, but is becoming general. In the second and even third rate ports, instances might be mentioned where inspectors change every day, and are occupied and receive fees, for the same period, as weighers, gaugers, &c., and even in some instances serve as clerks and deputies besides.

It has been said that these abuses are so palpable that the existing laws are adequate to their correction, and the collector who permits or connives at them ought to be instantly removed. The exercise of Executive power and the selection of a few prominent examples would no doubt be salutary; but so extensive and so habitual are these practices, the execution of the law, combined with the exertions of Executive power, will be scarcely sufficient to correct them.

It is apprehended by some honorable gentlemen that these inspectors will not be sufficient to perform the duties. Sir, you have called on the officer who presides over your revenue; you have asked him if these men and this pay will be sufficient, and he answers yes. Although I would repose implicit confidence in no Secretary, yet experience proves that we should be slow to believe that one would err in favor of economy.

Here the Secretary testifies against interest—against patronage. He offers to collect your revenue without the offices proposed to be abolished, and tells you they are useless. Would it not be, indeed, extraordinary to force upon him a horde of officers whom he does not want at an expense of \$100,000 per year?

Mr. H., in reply to Mr. OTIS, observed, I know not whether these subordinate officers in Boston are my friends or not, and it is to me a matter of indifference. This bill is neither local nor personal. I trust that, in voting for or against any public act, I never shall be influenced by personal considerations. These men I know not; one of them, I am told, is a brother-in-law of the collector; but they are alike strangers to me. It does, however, appear to me that, if they were my immediate constituents, they would scarcely thank me for a compliment, such as was paid them by the honorable gentleman. If I understand him, he apprehends that, reducing these men from four or five thousand to one thousand a year, they will make up the deficiency by helping themselves. Indeed! Is this their character? After permitting them year after year to take four times as much as they earn, if you attempt to withhold it, they will be careful to take it! Sir, I have a better opinion of them than this. I again protest against the policy of giving high salaries to keep men honest. If one man will not serve you for a fair compensation, another will. Too much pay is as deleterious as too little. High salaries lead to extravagance, extravagance to embarrassment, and embarrassment to temptation. Sir, we must

FEBRUARY, 1822.

Election of President pro tem.

SENATE.

come back to the frugality of our ancestors. We must cleave to our republican principles or abandon our republican professions. And it is come to this—you must tax, borrow, or retrench. Which will you do? 1, for one, will neither tax nor borrow.

When Mr. H. concluded—

Much debate took place on this and other provisions of the bill, in which Messrs. BROWN, of Louisiana, OTIS, HOLMES, of Maine, LOWRIE, PARROTT, VAN BUREN, and JOHNSON, of Louisiana, participated.

Mr. PARROTT moved to raise the commissions of the collector at Portsmouth, from $1\frac{1}{2}$ per cent to 2 per cent, and made several remarks in support of the equity of thus augmenting the allowance, and placing it on a par with other ports of the same class.

Mr. HOLMES of Maine, explained to show that the bill as it now stood would give the collector an average compensation of about \$1,700 a year, instead of about 1,500, which he now received, &c.

Messrs. LOWRIE, and D'WOLF, added a few remarks on the question; and

The motion was lost, without a division.

Mr. HOLMES, of Mississippi, moved so to amend the bill as to retain the revenue officer at Natchez, (which the bill proposed to abolish,) as his salary was but \$150, and his services were probably necessary to prevent frauds on the revenue, by the introduction of smuggled goods, &c.

Mr. HOLMES, of Maine, replied that the only use of an officer there, was to grant temporary registers, and he had granted but one of these since the office was created; though if he was deemed serviceable in preventing smuggling, Mr. H. had no objection to his retention.

Messrs. WILLIAMS, of Mississippi, and JOHNSON, of Louisiana, offered some remarks in favor of the amendment, and Mr. RUGGLES, a few opposed to it.

The amendment was agreed to by the casting vote of the PRESIDENT—15 rising for, and 15 against it.

Sundry other amendments were offered and discussed, in which Messrs. KNIGHT, HOLMES of Maine, and D'WOLF, engaged.

The bill being reported to the Senate, the amendments were all agreed to, and the bill was then ordered to be engrossed and read a third time.

TUESDAY, January 31.

Mr. GAILLARD presented a petition from sundry citizens of Colleton district, in the State of South Carolina, representing the injurious effect of the law which prohibits intercourse in British vessels from the West Indies, and praying its repeal or modification; the petition was read, and referred to the Committee on Foreign Relations.

The bill further to establish the compensation of officers of the customs and to alter certain collection districts, and for other purposes, was read a third time, and passed.

Mr. WALKER presented the memorial of the Mayor and Aldermen of the city of St. Augus-

tine, praying that an act may be passed making a donation of certain building lots and land to the corporation of St. Augustine. The petition was read, and referred to the Committee on Public Lands.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to the Senate a report from the Secretary of State, containing the information required by the resolution of the Senate of the 3d instant, with the documents which accompanied that report.

JAMES MONROE.

WASHINGTON, Jan. 28, 1822.

The Message and accompanying report were read.

Mr. JOHNSON, of Kentucky, from the Committee on Roads and Canals, to whom the subject was referred, reported a bill supplemental to an act, entitled "An act to authorize the appointment of commissioners to lay out the road therein mentioned." The bill was read, and passed to the second reading.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, laid before the Senate a letter from the Secretary of War to the chairman of the Committee on Military Affairs of the House of Representatives; and, on his motion, it was ordered to be printed for the use of the Senate.

FRIDAY, February 1.

The following letter, from the VICE PRESIDENT of the United States, addressed to Mr. KING, of New York, was read by that gentleman to the Senate:

WASHINGTON CITY, Feb. 1, 1822.

DEAR SIR: My health has suffered so much on my journey, and since my arrival at the Seat of Government, that I am desirous, as soon as the weather and the state of the roads will permit, to return to my family. And I have to request that you will be good enough to communicate this determination to the Senate at their meeting this day.

I have the honor to be, with great respect,

DANIEL D. TOMPKINS.

Hon. RUFUS KING.

ELECTION OF PRESIDENT PRO TEM.

On motion of Mr. KING, of New York, it was thereupon resolved, that the Senate would, at two o'clock, proceed to the election of a President of the Senate, *pro tempore*.

At 2 o'clock accordingly the Senate proceeded to the election of a President, and, on counting the ballots, the following result was declared:

For Mr. Gaillard	-	-	-	-	22 votes.
Mr. Macon	-	-	-	-	14
Mr. Lowrie	-	-	-	-	5
Mr. Dickerson	-	-	-	-	4
Scattering	-	-	-	-	1

46

No person having a majority of the votes, the Senate proceeded to ballot a second time, when there appeared to be—

SENATE.

Rebecca Hodgson.

FEBRUARY, 1822.

For Mr. Gaillard	- - - -	25 votes.
Mr. Macon	- - - -	17
Scattering	- - - -	4

46

Mr. GAILLARD, having received a majority, was declared to be elected President of the Senate *pro tempore*.

On taking the Chair, Mr. GAILLARD addressed the Senate as follows:

GENTLEMEN: No one can estimate more highly the value of your favorable opinion, nor could any one receive with more profound respect, or with more unfeigned gratitude, than I do, this fresh token of your confidence and favor. The gratification I derive from it would indeed have been complete, but for the unaffected apprehension I feel that, in the discharge of the duties assigned to me, I may disappoint your just and reasonable expectations. If purity of intention and an anxious desire to act correctly, which I bring with me to this station, should prove no security against the commission of error, I shall have to throw myself on that liberality and indulgence which you have been ever ready to exercise, and which I have already so frequently experienced from you. On this consoling and encouraging reflection I will rest; and I will only add, that, whatever of industry, of experience, or of capacity, I possess, shall be faithfully directed to an honest and impartial execution of the trust reposed in me.

On motion of Mr. KING, of New York, it was ordered that the Secretary communicate to the President of the United States, and to the House of Representatives, the election of the President of the Senate *pro tempore*.

The PRESIDENT laid before the Senate communications from the Treasury and Navy Departments, transmitting statements of certain disbursements and contracts required by law to be annually reported to Congress.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the memorial of Eliza Dill, and others, daughters of the late General Arthur St. Clair, made a report, accompanied by a resolution, that the prayer of the memorialists ought not to be granted.

Mr. EATON, from the Committee on Public Lands, to whom was referred the petition of Nicholas Ware and William A. Carr, executors of Thomas Carr, deceased, made a report, accompanied by a bill for the relief of the representatives of John Donaldson, Thomas Carr, and others; the report and bill were read, and the bill passed to the second reading.

Mr. THOMAS, from the same committee, reported a bill to designate the boundaries of a land district, and for the establishment of a land office in the State of Indiana; the bill was read, and passed to the second reading.

Mr. BARTON submitted the following motion for consideration:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law a mode of referring disputed pecuniary claims of individuals, either of a legal or equitable nature, against the United States, to the Federal Judiciary,

within the several States or Territories, for ascertainment and decision.

The Senate adjourned to Monday.

MONDAY, February 4.

The PRESIDENT communicated a report of the Secretary of War, made pursuant to a resolution of the Senate of the 16th ultimo, directing him to lay before the Senate the amount of money furnished the agent at the Bank of Vincennes, in the State of Indiana, for the purpose of paying the pensioners in said State, the name of the agent, with further information in relation thereto; and the report was read.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the petition of John Gooding and James Williams, made a report, accompanied by a bill authorizing the payment of a sum of money to John Gooding and James Williams. The report and bill were read, and the bill passed to the second reading.

Mr. EATON submitted the following motion for consideration:

Resolved, That the Committee on the District of Columbia be instructed to report a bill authorizing and directing a durable and well finished pavement of Pennsylvania avenue, from Capitol Hill to Georgetown.

The Senate resumed the consideration of the motion of the 10th ultimo, for appropriations of territory for the purpose of education; and, on motion by Mr. LLOYD, the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the motion of the 30th ultimo, for requesting the President of the United States to cause to be laid before the Senate copies of such leases or contracts as may have been entered into between him and the owners of the new building on Capitol Hill, for the accommodation of Congress, under the act of the 8th of December, 1815; and agreed thereto.

REBECCA HODGSON.

The Senate took up the report of the Committee of Claims unfavorable to the petition of Rebecca Hodgson. [She prays payment for a house rented to the Government for the use of the War Department, when the Government was first removed to Washington, in the year 1800, which house was burnt—the petition being grounded on the stipulation in the lease that the premises should be returned in the condition in which they were received, inevitable accidents excepted.]

The report was opposed at considerable length by Mr. PINKNEY, who argued and referred to testimony to show that the petitioner was entitled to payment according to the terms of the contract, that the claim was sustainable in law, were the Government suable, and that it ought to be allowed. He concluded by moving that the report be recommended to the Committee of Claims, with instructions to report a bill for the relief of the petitioner to the extent of the value of the house.

Mr. RUGGLES spoke at length in reply to Mr. PINKNEY and in support of the report of the committee. He took a particular view of the circum-

FEBRUARY, 1822.

Allowance of Drawback.

SENATE.

stances of the claim, and the evidence on which it was founded, embracing the contract of the lease, to show that the petitioner had no rightful claim on the Government for indemnity.

MESSRS. HOLMES, of Maine, BARTON, VAN DYKE, and TALBOT, also offered some remarks on the subject; and

Mr. P. at the suggestion of some of the gentlemen, having varied his motion to a simple recommitment, without instructions, except to make a report on a re-examination of the case and the documents—it was recommitted accordingly.

ALLOWANCE OF DRAWBACK.

The report of the Committee on Finance unfavorable to the petition of the creditors of George T. Phillips, deceased, [who pray an allowance of certain drawbacks, or a release from twenty-four debenture bonds, given in 1806-7, and 8, and not released, from the loss of the necessary certificates,] was taken up.

Mr. JOHNSON, of Louisiana, moved to reverse the report and recommit it with instructions to the committee to report a bill for the relief of the petitioners; and he followed his motion with an argument and a reference to documentary evidence, to show that the petitioners were entitled to relief.

Mr. BROWN, of Louisiana, also took a review of the facts on which the petition was founded, and argued from them to sustain the claims of the petitioners for relief.

Mr. HOLMES, of Maine, and Mr. EATON, severally submitted the grounds on which the committee had made the report, and which the latter gentleman argued were sufficient to justify the rejection of the petition.

MESSRS. OTIS, LANMAN, MACON, and D'WOLF, also took part in the debate on the subject.

The motion being varied to apply relief so far as related to a particular shipment [that of the coffee in the ship *Creole*] it was agreed to—yeas 24.

TUESDAY, February 5.

Mr. SMITH presented the petition of Trapman Johuke and Company, agents and consignees of the Swedish brig *Anna Sophia* and her cargo, praying to be relieved from the penalty incurred for a violation of the act concerning the navigation of the United States. The petition was read, and referred to the Committee on Commerce and Manufactures.

Mr. SMITH, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Missouri, and for the establishment of a district court therein," reported the same, with an amendment, which was read.

Mr. SMITH, from the same committee, to whom was referred the bill concerning the process of execution issuing from the sixth circuit court of the United States for the district of Georgia, reported the same without amendment.

Mr. HOLMES, of Maine, from the Committee on Finance, to whom was referred the bill vesting in the respective States the right of the United States

to all fines assessed for the non-performance of militia duty during the last war, reported the same without amendment.

Mr. HOLMES, of Maine, from the Committee on Finance, to whom was referred the petition of Henry W. Delavan and Company, merchants, of Albany, made a report, accompanied by a resolution, that the prayer of the petitioners ought not to be granted.

Mr. HOLMES, from the same committee, to whom was referred the petition of Henry I. Jones, praying relief from a judgment on a debenture bond, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted.

Mr. LANMAN presented the petition of Abel Pratt, of Connecticut, praying the extension of a patent right granted to Phineas Pratt for manufacturing combs. The petition was read, and referred to the Committee on the Judiciary.

Mr. PINKNEY presented the memorial of the President and Board of Managers of the American Colonization Society, praying the aid and support of the Government. The memorial was read, and laid on the table.

Mr. FINDLAY presented the petition of Edmund Kinsey and William Smiley, praying to be discharged from judgments obtained against them by the United States, as securities of Henry Phillips, deceased. The petition was read, and referred to the Committee on Finance.

Mr. PARROTT, from the Committee on Naval Affairs, to whom was referred the petition of William Vaughan, made a report, accompanied by a bill to reward Lieutenant Gregory, his officers, and companions. The report and bill were read, and the bill passed to the second reading.

The PRESIDENT communicated the resolutions of the Chamber of Commerce of the city of New York, in relation to the acts restricting the trade between the United States and the British West Indies. The resolutions were read, and referred to the Committee on Foreign Relations.

The PRESIDENT communicated a report of the President and Directors of the Washington Canal Company, made in obedience to the provisions of their charter, containing a statement of their receipts and expenditures since the report made on the 4th day of May, 1820, and ending on the 31st day of December last; and the report was read.

Mr. BARTON communicated a letter from Henry Lane and others, inhabitants of Pike county, in the State of Missouri, in favor of the sale of certain public lands in said county. The letter was read, and referred to the Committee on Public Lands.

Mr. RODNEY presented the memorial of Charlotte J. Bullus, widow and administratrix of John Bullus, deceased, late navy agent for the port of New York, praying that the accounting officer of the Navy Department may be directed to credit the account of the deceased at the rate of \$2,000 per annum during the time he performed the extra duties of navy agent on the Lakes. The memorial was read, and referred to the Committee of Claims.

The Senate resumed the consideration of the

SENATE.

Districts East of New Orleans

FEBRUARY, 1822.

report of the Committee of Claims, to whom was referred the memorial of Eliza Dill, Jane Jervis, and Louisa St. Clair Robb, daughters of the late General St. Clair; and, in concurrence therewith, resolved, that the prayer of the memorialist ought not to be granted.

The resolution moved by Mr. BARTON on the 1st instant, was taken up and agreed to in the following words:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing, by law, a mode of referring disputed pecuniary claims of individuals, either of a legal or equitable nature, against the United States, to the Federal Judiciary within the several States or Territories, for ascertainment and decision.

The resolution moved by Mr. EATON, to direct a committee to report a bill for making a pavement from the Capitol to Georgetown, was taken up.

Mr. E. made a few observations in support of it. It was a proposition, he said, which was free from the general objection to internal improvement, because the power was to be exercised where Congress were the exclusive legislators. He then adverted to the present situation of the Pennsylvania avenue, almost impassable for horse or foot, and asked whether it redounded to the credit of Congress that the main avenue of the Seat of Government should be in this condition? It would not be a sufficient answer to say that the people of this city might make it; for, Mr. E. said, he understood the taxes levied on the people of this city were already heavier than the taxes which were paid by the people of the States at any period of the late war. The Government, he thought, ought to take this subject in hand, and place the main avenue, at least, in such a condition that it could be traversed at all seasons of the year.

The resolution was agreed to without a division, but not without objection.

The bill to continue in force "An act declaring the consent of Congress to acts of the State of South Carolina, authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports; and to acts of the State of Georgia, authorizing the imposition and collection of a duty on the tonnage of vessels in the ports of Savannah and St. Mary's," was read the second time, and referred to the Committee on Commerce and Manufactures.

The bill supplemental to an act, entitled "An act authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile," was read the second time.

The bill supplemental to an act, entitled "An act to authorize the appointment of commissioners to lay out a road therein mentioned," was read the second time.

The bill to designate the boundaries of a land district, and for the establishment of a land office, in the State of Indiana, was read the second time.

The bill for the relief of the representatives of John Donaldson, Thomas Carr, and others, was read the second time.

The bill authorizing the payment of a sum of

money to John Gooding and James Williams, was read the second time.

LOUISIANA LAND TITLES.

Mr. BENTON submitted for consideration the following resolution:

Resolved, That the President of the United States be requested to communicate to the Senate any information which may be in the Department of State relative to land titles in Louisiana, particularly as contained in documents filed in the Department of State by order of Mr. Jefferson, if there be any. Also, a copy of the proclamation (if in the Department of State) addressed to the inhabitants of Louisiana in the year 1803, by General Salcedo and the Marquis de Casa Calvo, Commissioners on the part of His Catholic Majesty for delivering the province of Louisiana to the Commissioners of the French republic, announcing to the inhabitants the cession of the province. Also, a copy of that article of the Treaty of San Ildefonso, (if any such there be in the Department of State,) which secured to the inhabitants of Louisiana their rights of property; and if there be no copy of that treaty, nor of the article referred to, in the Department of State, that the President be requested to cause application to be made to the Courts of France and Spain for an authentic copy of the article in question, for the benefit of the inhabitants of the ceded province.

In offering this resolution, Mr. B. explained the object of it. The first clause was to procure from the Department of State, if there to be found, the copy of a paper concerning land titles in the State of Louisiana, which had once been printed by the order of this or the other House, but of which he had not been able to find a copy in the public Library, because this Capitol was once entered by an enemy who made war upon letters as well as upon men. The second clause called for another document which he was desirous to obtain; and the third called for a copy of that article of the Treaty of St. Ildefonso, which secured the inhabitants of Louisiana in the possession of the rights and property which they had previously enjoyed. That article had never been published. It might be in the Department of State; but, if it should not be there, the resolution proposes that application be made to the Governments of France and Spain for a copy of it. As the object of the resolution was not to pry into State secrets, but to get a copy of an article said to be in existence, which was intended for the security of the people of Louisiana in their rights and property, he hoped it would be considered unobjectionable. If there be such an article in existence, it ought to be made known for the benefit of those whom it may concern.

The resolution lies on the table for one day of course.

DISTRICTS EAST OF NEW ORLEANS.

The Senate then proceeded to the consideration of the bill "supplementary to the several acts for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans."

[The 1st, 2d, and 3d sections, confirm the reports of the commissioners appointed by the act to which this is a supplement, and grant donations of land

FEBRUARY, 1822.

Louisiana Land Titles.

SENATE.

to actual settlers prior to the date of the occupation of the territory by the United States, viz., April 15, 1813. The 4th section proposes that all actual settlers, prior to the third day of March, 1819, shall be entitled to a pre-emption right to the land on which they are settled, not exceeding 640 acres each.]

The Committee on Public Lands had reported a recommendation to strike out the 4th section, and several subsequent sections corresponding with it.

On this recommendation there arose a debate, in which great earnestness, and, considering the dryness of the subject, much eloquence was employed.

The recommendation of the committee was opposed by Messrs. H. JOHNSON and BROWN, of Louisiana, BENTON, of Missouri, EDWARDS, of Illinois, and WALKER, of Alabama, and supported by Messrs. LOWRIE, OTIS, and EATON.

The field which was covered by this debate was wide, and fully explored. The main reliance of the Louisiana delegation and their friends, was on the act of Congress inviting these claimants to come forward and register their names and proof of occupancy, and on the previous practice of the Government in analogous cases. On the other hand was presented the act of Congress forbidding settlements on the public lands, the expediency of a systematic observance of the land laws for the future, and the inexpediency of legislating as proposed for any one section of the unsettled country in preference to any other.

The recommendation of the Committee on Public Lands was agreed to—21 to 14.

The bill was then gone through, and postponed to Thursday, to allow time for preparing certain amendments which Mr. THOMAS intimated his intention to offer.

WEDNESDAY, February 6.

The PRESIDENT communicated a report of the Secretary of War, exhibiting the names of the clerks employed in the several offices attached to the Department of War, and the sums paid to each, in the last year; and the report was read.

Mr. THOMAS, from the Committee on Public Lands, to whom was recommitted the bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of public lands within the same," with instructions, reported the same, with amendments; which were read.

Mr. BARBOUR presented a memorial, signed by a number of citizens in the town of Alexandria, in the District of Columbia, praying that the bill lately introduced into the House of Representatives, establishing a uniform system of bankruptcy throughout the United States, may not be passed into a law. The memorial was read, and ordered to lie on the table.

Mr. HOLMES, of Maine, from the Committee on Finance, to whom was recommitted, with instructions, the report of said committee on the petition of William Nott, and others, in behalf of the creditors of George T. Phillips, reported a bill for the

relief of William Nott, Stephen Henderson, and Nathaniel Cox, syndics of the creditors of George T. Phillips, late of the city of New Orleans, deceased. The bill was read, and passed to the second reading.

Mr. WALKER presented the petition of Holden W. Prout, administrator of Joshua W. Prout, who held certain discharges of soldiers, praying the pay to which the soldiers were entitled. The petition was read, and referred to the Committee of Claims.

Mr. VAN DYKE and Mr. EATON laid before the Senate sundry documents relating to the title of the Marquis de Maison Rouge; and they were laid on the table.

Mr. THOMAS, from the Committee on Public Lands, to whom was referred the bill to provide for paying to the State of Mississippi three per cent. of the net proceeds arising from the sales of the public lands within the same; and also the bill to provide for paying to the State of Alabama three per cent. of the net proceeds arising from the sales of public lands within the same; reported them, respectively, without amendment.

Mr. SMITH, from the Committee on the Judiciary, to whom was referred so much of the Message of the President of the United States as relates to the future establishment of a government over the territory composed of East and West Florida, reported a bill for the establishment of a Territorial government in Florida. The bill was read, and passed to the second reading.

Mr. BARTON, from the Committee of Claims, to whom was referred the petition of James Weir, of Kentucky, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted.

Mr. NORLE submitted the following motion for consideration:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Russellville to Owensburg, in the State of Kentucky; from thence to Rockport, in the State of Indiana; and from thence to Indianapolis, by the way of Portersville, Bloomington, and Cutler's.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of Henry W. Delavan and Company, praying relief from several appraisements of goods imported into the port of New York; and, in concurrence therewith, resolved, that the prayer of the petitioners ought not to be granted.

The Senate resumed the consideration of the report of the same committee, to whom was referred the petition of Henry I. Jones, praying relief from a judgment on a debenture bond; and, in concurrence therewith, resolved, that the prayer of the petitioner ought not to be granted.

The bill to reward Lieutenant Gregory, his officers, and companions, was read the second time.

LOUISIANA LAND TITLES.

The Senate took up the resolutions offered yesterday by Mr. BENTON, requesting certain information from the President of the United States;

SENATE.

Maison Rouge's Claim.

FEBRUARY, 1822.

and, after some further explanation on the part of the mover, in which he showed, from the unsettled condition of land titles in upper Louisiana, (Missouri,) the probable value of the information which he sought—the two first branches of the resolution were agreed to.

The question being stated on the third branch of the resolution, which called for a copy of a particular article of the Treaty of St. Ildefonso, if in the Department of State, and, if not in the Department, then, that the President be requested to apply to the Courts of France and Spain for a copy of the same—

Mr. KING, of New York, said, he was very willing to go as far as to request of the President a copy of the treaty, if in the Department of State, but if it was not there he would ask no further. There would be an indelicacy, he thought, in applying to a foreign Government for a copy of a treaty which that Government had seen fit to keep private. It was a singular fact, Mr. K. observed, that the treaty by which Louisiana was originally ceded from France to Spain had never been made public; the only public document on this subject, was the letter from the King of France, (Louis XIV.,) to his Director General, D'Abadie, but the treaty was not published. So, likewise, with the retrocession of the country from Spain to France, the fact was made known only by a proclamation of General Salcedo and the Marquis de Casa Calvo. The Treaty of St. Ildefonso having been so carefully concealed by the parties to it, contained, no doubt, other stipulations besides that for the cession of Louisiana, which they did not choose to disclose. The reasons for this were reasons of State; and should our Government, under such circumstances, apply for a copy of the treaty, the answer, no doubt, would be that, so far as we were interested, we were informed of all that was necessary, and that we had no right to ask further. Should we say that there were things in the treaty which it was important for us to know, the reply would be the same, that what was kept back, was kept back for reasons of their own, in which we had no concern. As to the treaty containing any thing which affected private titles in the territory, every thing which related to that subject was embraced in the treaty by which the country was ceded to the United States. He had no objection, however, to requesting a copy of the treaty, if the Government possessed it, (though it was well known there was no such treaty in the Department of State,) but he would stop there—he could not consent to ask of a foreign Government to disclose to us what it had chosen not to communicate. He moved, therefore, to amend the resolution so as to correspond with this opinion.

Mr. LANMAN moved that the resolution be referred to the Committee on Foreign Relations.

Mr. BARTON saw no necessity for referring the resolution; nor did he see any impropriety in requesting a copy of that part of a treaty which related to the inhabitants of a country now become a part of the United States, and which was in-

tended for their benefit; and if it was not in the Department of State, he could imagine no impropriety in going further and asking France and Spain for that particular article, though they might wish to keep the treaty, in the main, private.

The motion to refer was negatived.

Mr. BENTON said, he had been careful to ask only for that particular article of the treaty which related to the rights of the people of Louisiana, lest it might have the appearance of wishing to pry into State secrets, or interfering with what did not properly concern them. But, in deference to those for whose opinions in such matters he respected, he would modify his resolution, as suggested by Mr. KING.

Mr. LOWRIE remarked that, if it was improper to call for a part of a treaty, it would be at least as much so to ask for the whole treaty. This treaty, he said, though not public, might have been communicated to the Executive of our Government in confidence; and it would be improper to take a step which might lead to the publication of it. He was, therefore, averse to the modification which had been accepted by the mover, and moved to restore it to its original shape.

Mr. KING, of New York, replied that every one who had been a member of the Senate long must know that the Treaty of St. Ildefonso was not in the possession of our Government, but merely that article of it which related to the cession of Louisiana.

Mr. RODNEY was of opinion that the treaty in question had been published, he believed in Dodsley's Annual Register. He was under this impression, from the circumstance, which he remembered, that when the Louisiana question was debated in the House of Representatives, Mr. GRISWOLD opposed the purchase, because, among other reasons, the title was not clear and complete, in consequence of the Treaty of San Ildefonso not having been promulgated; to whom it was answered, Mr. R. said, that the treaty had been published in the work which he had mentioned.

Mr. LOWRIE's motion to amend was negatived—ayes 16, noes 20; and

The resolution was agreed to in its modified form—simply requesting a copy of the treaty if in the Department of State.

MAISON ROUGE'S CLAIM.

The Senate then proceeded to the consideration of the bill to confirm the title of the Marquis of Maison Rouge to a tract of country (thirty square leagues) west of the Mississippi, on the Washita, which he held under a Spanish grant; which the Commissioners appointed to examine and settle the land titles in that country, after its cession to the United States were precluded by law, from its large amount, from acting on; and which now comes before the Senate on the petition of Daniel W. Coxe, one of the purchasers under Maison Rouge's patent. This claim has been formerly examined and discussed in the Senate, but not finally acted on in both Houses.

FEBRUARY, 1822.

Claim for Drawback.

SENATE.

A very long and earnest debate again ensued on it—in which Mr. VAN DYKE maintained the validity of the claim; and Mr. EATON, also a member of the Committee on Public Lands, opposed it. Mr. LANMAN also spoke at much length against it. The arguments and the examination of the documents connected with the claim continued until nearly four o'clock.

THURSDAY, February 7.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of James Wier, of Kentucky; and it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill confirming the title of the Marquis de Maison Rouge; and on motion, by Mr. OTIS, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the judicial power of the United States; and on motion, by Mr. JOHNSON, of Kentucky, the further consideration thereof was postponed until Monday next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the apportionment of Representatives among the several States according to the fourth census," in which bill they request the concurrence of the Senate.

The said bill was twice read, by unanimous consent; and referred to the Committee on the Judiciary.

The PRESIDENT laid before the Senate the annual report of the Commissioners of the Sinking Fund.

Mr. RUGGLES, from the Committee of Claims, reported a bill for the relief of Samuel Walker; which was read.

Mr. PLEASANTS presented a petition from sundry officers of the Navy and of the Marine Corps, who have, for purposes of benevolence, associated themselves under the name of the Naval Fraternal Association, and praying to be incorporated. The petition was read and referred.

The resolution offered yesterday by Mr. NOBLE was taken up and agreed to.

CLAIM FOR DRAWBACK.

The Senate resumed the consideration of the bill for the relief of Ebenezer Stevens, and others—the question still pending on the motion to strike out the clause allowing interest on the amount proposed to be granted to the petitioners.

Mr. LANMAN offered some objections to the propriety of allowing interest in this case, and Mr. MORRIL explained, very much in detail, the facts connected with the claim, to show its equitable and obligatory character, and the justice of allowing interest. Mr. EATON believed it was unusual to allow interest in any case, one of which (the Castine case) of a strong character he cited, in which it was refused; and this would be a bad precedent. Mr. MILLS referred to the circumstances of the claim, showing it had many years

ago been liquidated, and an award made in favor of the claimants, by a tribunal created for the purpose by the Government; that it was different from other cases of claim heretofore presented; and that, as payment had been withheld, interest ought to be allowed. Mr. WILLIAMS, of Tennessee, referred to instances of liquidated claims not paid for a long time, in which interest was refused; and argued, that if the principle be departed from in this case, those heretofore refused might justly come forward and claim interest. Mr. CHANDLER had some doubts about the justice of allowing the principal of this claim, much more the interest. Mr. RUGGLES stated the ground on which the committee had acted; they had not allowed the whole claim, but such part only as was liquidated by an arbitration thirty years ago, and that part they proposed should be paid with interest. Mr. LANMAN said there were but two ways in which interest could be claimed—either by contract or as damages; and he argued that on neither of these grounds could interest be demanded in the present case. He also opposed the claim itself, as not equitable or legal. Mr. WALKER did not deem the present such a case as ought to form an exception to the rule against the allowance of interest—the award of the referees had never been sanctioned by Congress, and ought never to be; which opinion he made some remarks on the facts of the transaction to sustain. Mr. BARTON reviewed the case minutely, and accompanied it with a number of reasons in support of the justice and high obligation of the claim. Mr. MACON and Mr. LOWRIE each submitted the reasons which impressed them with the opinion that this was not a just claim on the Government. Some additional remarks were offered by Messrs. LANMAN and MORRIL; and then, to allow time for an examination into some Congressional documents relating to the subject, not before the Senate, the bill was postponed to Monday.

FRIDAY, February 8.

The PRESIDENT communicated a report of the Secretary of War, made in conformity with the resolution of the Senate of the 29th ultimo, directing him to communicate certain information concerning Revolutionary pensioners; and the report was read.

The PRESIDENT also communicated a report of the Secretary of State, made in compliance with the resolution of the Senate of the 24th ultimo, transmitting all the returns received at that Department from the several marshals of the districts and territories of the United States, concerning manufacturing establishments and manufactures, made in pursuance of the provisions of the act of the 14th of March, 1820. The report was read, and referred to the Committee on Commerce and Manufactures.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the memorial of Alfred Moore and Sterling Orgain, praying for the payment of one hundred and twenty dollars for blacksmith's work furnished the Tennessee volunteers,

SENATE.

Uniform System of Bankruptcy.

FEBRUARY, 1822.

made a report, accompanied by a resolution that the prayer of the petitioners ought not to be granted.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making partial appropriations for the support of the Navy of the United States during the year 1824, in which bill they request the concurrence of the Senate.

The bill was twice read, by unanimous consent, and referred to the Committee on Naval Affairs.

Mr. SMITH, from the Committee on the Judiciary, to whom was referred the bill prescribing the mode of commencing, prosecuting, and deciding controversies between States, reported the same, without amendment.

Mr. JOHNSON, of Louisiana, presented the petition of Jumonville de Villier, of Louisiana, praying compensation for the destruction of his property during the invasion of that State by the British. The petition was read, and referred to the Committee of Claims.

Mr. KNIGHT presented the petition of Jacob Babbitt, merchant, of the port of Bristol, in the State of Rhode Island, praying the remission of duties on a large quantity of sugar, which was totally destroyed by the great storm on the 23d of September, 1815, as stated in the petition; which was read, and referred to the Committee on Finance.

The bill for the relief of William Nott, Stephen Henderson, and Nathaniel Cox, syndics of the creditors of George T. Phillips, late of the city of New Orleans, deceased, was read the second time.

The bill for the relief of Samuel Walker was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill supplementary to the several acts for adjusting the claims to land, and establishing land offices, in the districts east of the island of New Orleans; and the further consideration thereof was postponed until Monday next.

UNIFORM SYSTEM OF BANKRUPTCY.

Mr. SMITH presented the memorial of the citizens of Charleston, South Carolina, praying the establishment of a uniform system of bankruptcy throughout the United States. The memorial was read, and laid on the table. It is as follows:

To the honorable the President and Members of the Senate of the United States: The memorial of the citizens of Charleston, S. C. respectfully represents:

That your memorialists are of opinion that it is the duty of the citizens of this Republic to submit to your honorable body, in Congress assembled, those great grievances under which they may at any time suffer, and which you alone can redress; they therefore crave leave to call your attention to the embarrassing situation both of creditors and debtors in this commercial nation. The extraordinary and anomalous spectacle has been for some time exhibited to the civilized world of a Government, whose chief support is derived from

commerce, providing no laws to protect that system of credit which is the basis of mercantile prosperity. With full power, and, as your memorialists presume to think, under imperious obligations, to make a uniform system of bankruptcy, by which a single, simple, and consistent code shall regulate the various relations subsisting between debtor and creditor, the Government of the United States has, for years past, forbore to interfere; and has left the parties to those unjust, uncertain, incomplete, unequal, and conflicting regulations, which above twenty different States have made, and are continually modifying, changing, or repealing. To say nothing of the ruinous effects of these laws upon foreign commerce, in which we are all so deeply interested, the obstructions which are thus thrown upon our domestic intercourse are pregnant with consequences injurious to the welfare of the Union. The extent of our territory, the enterprising spirit of our citizens, our interests, and our necessities, give rise to a commerce between the States, which, if fairly conducted, would cement our yet happy alliance, and lead to an enviable prosperity. But can that commerce be fair, or prosperous, or lasting, where there is no uniform law to govern the relations of debtor and creditor?—where a creditor of the South receives one measure of justice from his debtor in the West, another in the East, and a third in the North?—where he finds that the insolvent systems in these different quarters are discordant; and where dishonest preferences are given, by which he often sees property, which he had sold on a credit to his debtor, parcelled out among other creditors, real or fictitious, to the utter exclusion of himself; or where his debtor, sheltered by his State insolvent law, preserves his estate, and laughs him to scorn? If it were proposed to devise a scheme to destroy confidence between the citizens of the different States, to obstruct their commercial intercourse, to foment sectional animosities, and to weaken their Union, none could, probably, have been invented by the most mischievous intellect to accomplish more effectually such baneful purposes than a neglect or refusal in the General Government to act under these powers, so especially delegated by the people. Your memorialists would point out to your honorable body the defects which exist in the respective insolvent laws of the States; but the details would not only be voluminous, but unnecessary. They deem it sufficient to say, (and they apprehend their assertion will not be denied,) that these laws are very distinct in their objects from bankrupt laws, are all defective in important particulars, and especially in those in which the excellence of a bankrupt system consists. They do not prevent unjust preferences, nor expedite the surrender of property; nor enforce the equal distribution of assets; nor relieve from future liability the property of the debtor who has fairly surrendered his effects: neither can the States pass any laws, were they so disposed, that could have this latter operation. In some of the States (but it would be invidious to name them) these insolvent laws appear to be calculated to promote fraud, by holding out encouragement to dishonesty; in others, to produce a species of bondage in the miserable debtor, from which death alone can relieve him. In a word, creditors, foreign and domestic, are as much the victims of these multifarious and unwise systems as the debtors themselves; and, if the Congress of the United States have the power to put an end to these evils, it is most earnestly and fervently desired that they would exercise it.

FEBRUARY, 1822.

Uniform System of Bankruptcy.

SENATE.

Your memorialists are aware that the interests of the various sections of the Union will produce a conflict of opinions upon the details of any bill which can be introduced for this purpose; and they are satisfied that in this, as in all other measures affecting the people of all the States, mutual concessions must be made, or nothing will be done. They do not imagine that human talents can devise any system which is perfect; but they feel a consoling confidence that the intelligence of your honorable body is fully equal to the enactment of such provisions on this subject as shall be most conducive to the general welfare. We have not only the experience of many of the European Governments, with their well-digested systems, particularly those of Scotland and England, where centuries have confirmed the importance of those parts which are salutary, and exposed such as were defective—but we have the experience which resulted from the short existence of the act of 1800. Unfortunately for this country, that act, instead of being judiciously amended, and gradually ripened into excellence, was prematurely torn from your statute book, at a moment when its benefits were beginning to be felt. With such lights, and a steady view to the welfare of the people, your memorialists trust much good, and but little evil, will result from your acts. They presume not, therefore, to suggest any particulars whatsoever of a bill; but confine themselves within their legitimate province of making known their complaint, and petitioning for redress. They desire, however, to express their opinion on the power and obligation of your honorable body to pass this law, and on its importance to the country. They regard your power to act as both full and exclusive. It is full: for the grant of power to make a uniform system of bankruptcy comprises every thing which can be included in the terms, in their most general acceptance; consequently, should the act impair the obligation of contracts, or operate retrospectively, (which it must do, in order to be beneficial,) it would strictly conform to the meaning of the Constitution. It is exclusive: for the States have expressly deprived themselves of the right to impair the obligation of contracts, which seems to be included in the power to pass a bankrupt law. It is impracticable, therefore, for the States to exercise this power; and it is essentially necessary to the prosperity of the commerce of the United States, and the happiness of a large proportion of the people, that it should be exercised. The framers of the Constitution were of this opinion when they penned the clause in that instrument, and the several States when they sanctioned it. The language of Mr. Madison on the propriety of it was as follows: "The power of establishing uniform laws of bankruptcy is so essentially connected with the regulation of commerce, and will prevent so many frauds where the parties live, or their property may lie, or be removed into different States, that the expediency of it seems not likely to be drawn into question." As, then, your power is both full and exclusive, and the exercise of it not only expedient but necessary, your memorialists most respectfully submit to your honorable body, whether, having undertaken to fulfil the trusts with which you are clothed by the people who framed that Constitution which has called you into existence, you can now decline acting.

Your memorialists do not observe, in the light in which they have been represented, the alleged evils resulting from the establishment of a bankrupt system.

It is said that it cannot be equitably enforced, because it is radically unjust; that it will encourage extravagant speculation; be productive of frauds and perjuries; add to the criminal code, and impair our attachment to the laws. But why, it may be asked, cannot this system be as equitably enforced as any other part of the code of laws? Can there be any thing peculiarly iniquitous in a law whose primary objects are to protect the interests of the creditor, the future welfare of the honest debtor, the punishment of the fraudulent one, the equal distribution of an insolvent's assets, and the promotion of individual, commercial, and national prosperity? Have we really attained a more perfect commercial knowledge than the Dutch, French, Scotch, and English? Are we ourselves, in short, satisfied that State insolvent acts, confused in their provisions, and limited in their efficacy by the Constitution, are sufficient for these purposes? Or is public opinion audibly expressed in almost every commercial city of the Union on the necessity of the measure? That system, then, whose objects are so excellent, your memorialists trust, cannot, under the regulations of a wise Legislature, be inequitably enforced.

The argument which attempts to prove that this law, however constructed, will encourage extravagant speculation—inasmuch as the debtor, when he gains, makes his fortune, and, when he loses, only becomes a bankrupt, to begin again—overlooks the obvious consideration, that the difficulty of obtaining credit will be in the same ratio with the facility of procuring a discharge. It seems also to be forgotten that the most honest bankruptcy must be more or less injurious to the mercantile reputation of any individual, and will not therefore, be carelessly incurred. That frauds and perjuries will be committed under any system, your memorialists freely admit. They are, unfortunately, the daily subjects of legal investigation and punishment in all your courts; and most of your laws are made to prevent their commission. But it is not observed that so many frauds can result from a proper bankrupt system, as from the respective insolvent laws, which afford peculiar facilities, both from their number and imperfections, to the accomplishment of nefarious schemes; and it is most manifest to your memorialists that the latter produce infinitely more injustice. It is true, the bankrupt act may be abused and converted into an instrument of fraud; but so may, and are, all other human laws, however perfect and however valuable.

If it were true that the establishment of this system would add to our criminal code, and, by deluging our country with blood and misery, impair our attachment to the Government, your memorialists certainly would deprecate the measure. But its sanctions must be prescribed by your own decree; and the wisdom of your honorable body will certainly impose no other punishments for the commission of frauds than those which the common feelings of mankind can approve. This, so far from making a frightful addition to the criminal code, will, in many instances be less rigorous than State inflictions for similar offences against the insolvent laws. The experience of mankind points to moderate but certain punishments as best adapted to prevent crimes; and the wisdom of Congress will never subject so excellent a system to so fatal an objection.

Your memorialists cannot conclude without recalling to the recollection of your honorable body the great number of persons whose interests are most deeply

SENATE.

Bank of the United States.

FEBRUARY, 1822.

involved in this matter. They do not now allude to the people of the Union, generally, though they are all remotely or immediately interested; nor to creditors whose fortunes are directly concerned; but to the thousands and tens of thousands of our wretched fellow-citizens, overwhelmed by debts that grind them to the earth, and whose only hope of release under Heaven rests on Congress. These men are now deprived of all honest and open employment; the product of their industry (where industry is exerted) inures to the benefit of others, or is concealed from view. Their families are either miserably sustained by clandestine and immoral gains, or abandoned to want, ignorance, and vice; whilst the wretched parent drowns his despair in intemperance. To a Government that loves to watch over the happiness and virtue of the people, this view of the subject would suggest the most interesting considerations. Your memorialists can only thus hint at them; but, should your honorable body, contrary to their expectations, regard it as unmanly or unwise to yield to the voice of humanity, unless seconded by policy, they trust that, in this particular, they are in unison. The passage of the act will enable a majority of these miserable persons again, in the face of day, to resume their former industrious habits. They will once more feel a warm affection for their country; they will hasten to reform their morals, and to educate their offspring; and thus, by becoming useful and enterprising citizens, will relieve society from a weight which now oppresses it, and swell the coffers of the State. Surely, the political advantages which must thus result from this increase of active population are not to be despised.

Your memorialists have thus, as briefly as possible, laid before your honorable body their grievances, which are not peculiar, but are felt in every part of the Union. They submit the subject with this their earnest petition, that a uniform system of bankruptcy may be passed, in such form and manner as to the wisdom of Congress shall seem best calculated to promote the welfare and happiness of our beloved country.

And your petitioners will ever pray.

SAMUEL PICOLEAU,
J. N. CARDOZO,
JOSEPH JOHNSON,
JOHN D. HEATH,
ALEXANDER BLACK,
Committee.

JAMES HAMILTON, JUN.,
Intendant of Charleston, Chairman.

BANK OF THE UNITED STATES.

On motion of Mr. FINDLAY, the Senate agreed (ayes 14, noes 12) to take up the bill to amend the charter of the Bank of the United States, [authorizing the appointment of a register and an agent, to sign and countersign the notes of the bank; and making it penal in the officers or servants of the bank to embezzle the funds or property thereof.] The bill having been read—

Mr. FINDLAY said, that in addition to the provisions contained in the bill under consideration, the directors of the bank had, by their petition, applied for a modification of the 14th section of the act incorporating the institution which relates to their notes being receivable in payment to the United States; and, also, so much of the act as precludes the re-election of directors who have served for three successive years. Before he should say

any thing on the merits of the application, he would take the occasion to state, that if the proposition to incorporate the subscribers to the bank were now pending, he could not vote for it. Apart from other considerations, the doubts he entertained of the constitutionality of the measure would forbid him. But it was admitted that this was a subject on which an honest difference of opinion might prevail; and as the law had been enacted by the proper authority, bound to support the Constitution, who doubtless acted conscientiously, it was incumbent on every good citizen to surrender the right of private opinion, at least so far as to yield a practical submission to the law to sustain and cherish the institution created by it, consistently with the rights of the citizens, the interest of the State banks, and without producing any inconvenience in the financial operations of the Government. The bank, Mr. F. said, had been in operation for upwards of five years, and experience may have unfolded defects in the act of incorporation, which human sagacity could not have foreseen; and any that have been discovered, I think it, said he, our duty to remedy if it can be done on the principles to which I have alluded. Or, in other words, if we can promote the interest of the stockholders, and enable the directors to employ the capital of the bank with more advantage to the public, and without injuring any one, (which are the grounds assumed in the petition,) it presents a strong case for the interference of the Legislature. Some of the stockholders, said Mr. F. it is true, are foreigners, but they have no participation in the direction of the institution; but it must be recollected, that a considerable part of the stock is held by our own citizens, and by their widows and orphans, and some of it, probably, by religious and benevolent societies. It is, however, of little consequence to inquire who the stockholders are, inasmuch as the stock is transferable, and is daily changing hands, unless it be the part held by the Government. Let the capital of the bank be furnished from whence it may, the directors having it under their control, and the Government deeply interested in the prosperity of the institution, it is proper that they should have the power to employ its capital with the greatest possible advantage to the nation. Whether all they have requested by their petition be necessary for this purpose, or whether, if granted, this effect would be produced, Mr. F. said he was not prepared to say.

As to the modification of the provision, of their notes being receivable in all payments to the United States, it involved a variety of important considerations. He was aware that the existing regulation operated against the interests of the stockholders; but still it was an important part of their contract, from which we should not release them without pretty clear evidence that it should not affect the interests of the local or State banks, nor of the commercial part of our citizens, nor interfere with the financial arrangements of the Government; of which none were qualified to judge unless they were conversant with the details of banking, with commercial operations, and particularly acquainted with the financial con-

FEBRUARY, 1822.

Maison Rouge's Claim.

SENATE.

cerns of the nation. Mr. F. confessed that he had not an accurate knowledge of any of them, and should not, therefore, at present, venture to differ in opinion on that point with the Committee of Finance, that reported the bill. But, as to the ineligibility of the directors who have served three successive years, its probable operation might be understood by every one; and, with due deference to the judgment of the committee, he had no hesitation in expressing his opinion that the request ought to be granted. The members of the moneyed institutions, said Mr. F., are generally watchful of their own interests, which I would suffer them to pursue in their own way, when it could not affect those of others; and, from my view of the subject, the interests of none could be affected by permitting the stockholders of the bank to re-elect agents whom they have found to be faithful in the management of the bank, though they had served more than three successive years. Convinced, as he was, that no evil could flow from granting the request of the bank in this particular, still he did not propose a permanent change of any principle contained in the act of incorporation, and, therefore, would only move that the bill be recommitted, with instructions to the committee to introduce a provision, suspending for five years, or otherwise modifying so much of the act of incorporation, as declares the directors of the bank and its branches shall be ineligible who have served three years in succession—not embracing the Government Directors.

Mr. HOLMES, of Maine, observed that he was one of those who, in the committee, had negatived the application of the bank for the objects referred to by Mr. FINDLAY, and it was incumbent on him therefore to show the grounds on which they had been refused; but, not expecting to-day a motion embracing instructions to such an extent, he was not at this moment fully prepared for the subject, and hoped it would be postponed to Monday.

The bill was postponed accordingly.

MAISON ROUGE'S CLAIM.

The Senate resumed the consideration of the bill to confirm the title of the Marquis de Mason Rouge to a tract of land claimed under a Spanish grant.

Mr. HOLMES, of Maine, submitted an argument of more than an hour, to invalidate the title of the claimant, and to show that his grant was void and ought not to be confirmed; that, if there was any conveyance, it was fraudulent, and, if good, the condition of it had not been performed.

Mr. SOUTHARD followed, and spoke at considerable length to obviate the objections made to the claim, and to show that it was genuine, was legal, was unimpaired, and ought to be confirmed by the United States.

Mr. BROWN, of Ohio, submitted the reasons why he deemed the claim not a good one, and why, if genuine, it did not go to the extent set up under the grant.

The further consideration of the bill was then, on motion of Mr. OTIS, postponed to Monday.

Mr. BENTON, from the Committee on Public

Lands, reported a bill to enable the holders of incomplete French and Spanish titles to lands within that part of the late province of Louisiana which is now comprised within the limits of the State of Missouri, to institute proceedings to try the validity thereof, and to obtain complete titles for the same when found to be valid; and the bill was read.

MONDAY, February 11.

Mr. THOMAS, from the Committee on Public Lands, to whom was referred the bill to authorize the State of Illinois to open a canal through the public lands, to connect the Illinois river and Lake Michigan, reported the same with amendments; which were read.

Mr. THOMAS, from the same committee, to whom the subject was referred, reported a bill granting to the Corporation of the city of Mobile, in the State of Alabama, certain lots of ground in the said city. The bill was read, and passed to the second reading.

Mr. VAN DYKE, from the Committee of Claims, to whom was referred the memorial of Jacob Barker, of the city of New York, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted.

Mr. SMITH, from the Committee on the Judiciary, to whom was referred the petition of Abel Pratt, made a report, accompanied by a resolution that the prayer of the petitioner be not granted.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the bill, entitled "An act making partial appropriations for the support of the Navy of the United States during the year 1822," reported the same without amendment.

Mr. HOLMES, of Maine, presented the petition of George Ulmer, who had the command of the United States troops and volunteers at Eastport, in the year 1813, praying compensation for certain ordnance taken from the enemy, as stated in the petition; which was read, and referred to the Committee on Naval Affairs.

Mr. JOHNSON, of Louisiana, presented the petition of Marie Louise de la Gautrais, praying the confirmation of her title to a tract of land in Louisiana. The petition was read, and referred to the Committee on Public Lands.

Mr. PLEASANTS presented the petition of Lawrence Muse, praying compensation for a warehouse destroyed by the British, in consequence of its occupation for the use of the United States. The petition was read, and referred to the Committee of Claims.

The bill for the establishment of a Territorial government in Florida was read the second time.

The Senate resumed the consideration of the motion of the 10th ultimo, respecting appropriations of territory for the purposes of education; and on motion, by Mr. TALBOT, it was laid on the table.

The Senate resumed the consideration of the report of the Committee of Claims on the memorial of Alfred Moore and Sterling Orgain; and on

SENATE.

Maison Rouge's Claim.

FEBRUARY, 1822.

motion, by Mr. WALKER, it was laid on the table.

A message from the House of Representatives informed the Senate that they have passed a resolution directing the classification and printing of the accounts of the several manufacturing establishments and their manufactures, collected in obedience to the tenth section of the act to provide for taking the fourth census; in which resolution they request the concurrence of the Senate.

Mr. SMITH, from the Committee on the Judiciary, to which had been referred the bill from the other House to fix the ratio of representation under the fourth census, reported the same with an amendment to strike out 40,000, and insert 42,000 as the ratio.

MAISON ROUGE'S CLAIM.

The Senate then resumed, in Committee of the Whole, the consideration of the bill to confirm the claim of the Marquis de Maison Rouge to a certain tract of land in the State of Louisiana.

Mr. OTIS defended the claim in a speech of nearly two hours' length; and

Mr. BARBOUR spoke more than an hour in opposition to the validity of the claim; and then, about half-past 3 o'clock, the Senate adjourned.

TUESDAY, February 12.

The PRESIDENT communicated a letter from the Secretary of War, transmitting a statement, by the Second Comptroller, of the appropriations for the service of the year 1821, showing the amount expended, and the balance remaining unexpended, on the 31st of December last; and the letter and report were read.

Mr. HOLMES, of Maine, presented the memorial of the inhabitants of the town of Danvers, in the Commonwealth of Massachusetts, against the passage of a bankrupt law. The memorial was read, and referred to the Committee on the Judiciary.

Mr. HOLMES, of Maine, from the Committee on Finance, to whom was referred the petition of Edmund Kinsey and William Smiley, sureties of Henry Phillips, late a paymaster in the Army of the United States, made a report, accompanied by a resolution that the prayer of the petitioner ought not to be granted.

Mr. JOHNSON, of Kentucky, gave notice that tomorrow he should ask leave to introduce a bill to define admiralty and maritime jurisdiction.

The resolution brought up yesterday from the House of Representatives for concurrence, was read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee of Finance, on the memorial of the Trustees of the Transylvania University; and, on motion by Mr. HOLMES, of Maine, the further consideration thereof was postponed to, and made the order of the day for, Thursday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of Jacob Barker, of the city of New York; and, in concurrence therewith, re-

solved that the prayer of the petitioner ought not to be granted.

The Senate resumed the consideration of the report of the Committee on the Judiciary, to whom was referred the petition of Abel Pratt; and the further consideration thereof was postponed until Monday next.

The bill to enable the holders of incomplete French and Spanish titles to lands within that part of the late province of Louisiana which is now comprised within the limits of the State of Missouri, to institute proceedings to try the validity thereof, and to obtain complete titles for the same, when found to be valid, was read the second time.

Mr. VAN BUREN presented the petition of Matthew McNair, praying indemnification for the loss of a flat-bottomed boat, impressed into the service of the United States by Robert Swartwout, Quartermaster General. The petition was read, and referred to the Committee of Claims.

The bill granting to the Corporation of the city of Mobile, in the State of Alabama, certain lots of ground in the said city, was read the second time.

MAISON ROUGE'S CLAIM.

The Senate resumed the consideration of the bill to confirm the title of the Marquis de Maison Rouge to a tract of land in Louisiana.

Mr. BROWN, of Louisiana, addressed the Senate near an hour in support of the claim; and

Mr. VAN BUREN spoke about an hour and a half in opposition to the claim.

WEDNESDAY, February 13.

Mr. THOMAS, from the Committee on Public Lands, to whom the subject was referred, reported a bill granting the right of pre-emption to actual settlers on the public lands in the State of Illinois. The bill was read, and passed to the second reading.

Mr. KNIGHT laid before the Senate a letter from the First Comptroller of the Treasury in relation to the petition of James Babbitt for the remission of certain duties. The letter was read, and referred to the Committee on Finance.

Mr. BENTON submitted the following motion for consideration:

Resolved, That the President of the United States be requested to make known to the Senate the annual disposition which has been made of the sum of fifteen thousand dollars, appropriated by an act of Congress of the year 1802, to promote civilization among friendly Indian tribes; showing to what tribes that evidence of the national bounty has been extended, the names of the agents who have been intrusted with the application of the money, the several amounts by them received, and the manner in which they have severally applied it to accomplish the objects of the act.

Mr. DICKERSON, from the Committee on Commerce and Manufactures, to whom the subject was referred, reported a bill to authorize the building a lighthouse at Stonington Point, in the State of Connecticut. The bill was read, and passed to the second reading.

FEBRUARY, 1822.

Maison Rouge's Claim.

SENATE.

Mr. SEYMOUR presented the petition of Samuel Buel, of Burlington, praying relief in the settlement of his accounts as collector of the customs for the district of Vermont. The petition was read, and referred to the Committee on the Judiciary.

The resolution directing the classification and printing of the accounts of the several manufacturing establishments and their manufactures, collected in obedience to the tenth section of the act to provide for taking the fourth census, was read the second time, and referred to the Committee on Commerce and Manufactures.

The Senate resumed the consideration of the report of the Committee on Finance on the petition of Edmund Kinsey and William Smiley, sureties of Henry Phillips, late a paymaster in the Army of the United States; and, on motion by Mr. EATON, it was laid on the table.

Mr. DICKERSON, from the select committee to which was recommended the resolution proposing an amendment to the Constitution of the United States, relative to the election of Electors of President and Vice President of the United States, &c., reported the same with an amendment, (providing that "at the same time, the two additional Electors to which each State is entitled, shall be chosen by the persons qualified to vote, in such manner as the Legislature of the State shall direct.")

ADMIRALTY JURISDICTION.

Mr. R. M. JOHNSON, of Kentucky, agreeably to notice given, and having obtained leave, introduced the following bill, which was read and passed to the second reading.

Be it enacted, &c., That the District Courts of the United States shall have exclusive cognizance of all civil causes of admiralty and maritime jurisdiction, relating to the navigation of the high seas, and ports, and havens, and creeks, within the ebb and flow of the tide, and of all torts and injuries done or committed upon the high seas, and upon creeks, ports, and havens, within the ebb and flow of the tide; and of all offences committed upon the high seas without the jurisdiction of any State, except offences which by law are exclusively cognizable in the Circuit Courts of the United States: *Provided,* That the admiralty and maritime jurisdiction aforesaid shall not be so construed as to extend to any case arising from the trade or commerce carried on within the interior of any State or Territory of the United States upon navigable waters, where such trade or commerce stops short of, or is limited to the ebb and flow of the tide.

On introducing this bill—

Mr. R. M. JOHNSON stated, that he had prepared a bill to define admiralty and maritime jurisdiction, and he would ask leave to introduce it according to the notice given on yesterday. He was extremely happy to discover, from a very attentive examination of the principles of admiralty, that the Supreme Court had confined it in criminal cases to the high seas, and refused to exercise it even in Boston harbor, within the ebb and flow of the tide, because it was within the jurisdiction of Massachusetts. In this opinion, delivered by Chief Justice Marshall, the most scrupulous regard is

manifested for State rights—that Judge Story had given an opinion in a civil case of admiralty jurisdiction, in which he had occupied upwards of ninety pages in Gallison's Reports, 2d vol., and after giving a general view of the history and the principles of admiralty jurisdiction, in a very learned and able manner, much to his credit, he confines its operations to the high seas, and to the ebb and flow of the tide. That he had made these remarks, and stated these facts to correct erroneous impressions which had been made upon the public mind, that the opinions of the Supreme Court, or some of its judges, had justified, for the first time, in this or any other country, the exercise of admiralty jurisdiction over the interior trade of the country, not connected at all with the high seas. Here Mr. J. read from Judge Story's opinion the following words, viz:

"On the whole, the result of this examination may be summed up in the following propositions. 1st. That the jurisdiction of the admiralty, until Richard II. extended to maritime contracts, whether executed at home or abroad, and to all torts, injuries, and offences, on the high seas, and in ports and havens, as far as the ebb and flow of the tide. 2d. That the common law interpretation of the statutes, (of Richard,) abridges the jurisdiction to things wholly and exclusively done upon the sea. 3d. That this interpretation is indispensable upon principle, and the decisions founded upon it are inconsistent and contradictory. 4th. That the interpretation of the same statutes by the admiralty does not abridge any of its ancient jurisdiction, but leaves to it cognizance of all maritime contracts, and all torts, injuries, and offences, upon the high seas, and in ports, as far as the tide ebbs and flows. 5th. That this is the true limit which, upon principle, would seem to belong to the admiralty."

Thus Judge Story expressly confined the jurisdiction in civil cases of admiralty, to the ebb and flow of the tide—and the Supreme Court in criminal cases, to the high seas.

MAISON ROUGE'S CLAIM.

The Senate then resumed the consideration of the bill to confirm the claim of the Marquis de Maison Rouge, to a tract of thirty square leagues of land in the State of Louisiana.

Mr. SMITH, of South Carolina, delivered a speech of about two hours and a half against the validity of the claim.

Mr. TALBOT moved that the bill be recommitted with instructions to prepare and report a bill providing the adjudication of this and all similar claims to land within the late province of Louisiana, derived from the Powers formerly claiming the sovereignty of the said province previous to the cession thereof to the United States, by the regular judicial tribunals of the United States, reserving to either party the right of appeal to the Supreme Court, agreeably to the provisions of the existing laws regulating appeals.

Mr. T. followed his motion with a number of remarks to show the inexpediency of deciding such intricate and complicated titles in Congress, which, from its constitution and numbers, could not possibly, amongst its other multifarious duties, decide on them as well as the judiciary; that their dis-

SENATE.

Proceedings.

FEBRUARY, 1822.

cussion here consumed a great deal of time, at the expense every year of many thousand dollars; that, if the petitioners fail at one session, they apply again and again, causing, at each repetition, the same consumption of time and expense; that if the claims are just, it is cruel to keep the claimants wasting their time and money, year after year, even to their ruin, in petitioning Congress; that the courts could decide with justice to both parties—at least with full justice to the Government, in favor of which if they could be supposed to be biased at all (though he felt for the Supreme Judiciary the greatest reverence) they might be expected to lean—certainly not against it—and, when they decide, the decision is final—the Government relieved from further importunity, expense, and waste of time. That there were other claims of great magnitude which would, as they had often done already, require and occupy the attention of the Senate as soon as the present one should be disposed of, &c.

MR. BARTON, of Missouri, said he should be willing to provide some convenient general mode of referring to the judiciary all claims originating under the late Government of Spain, in Louisiana; a mode similar to that suggested by the gentleman from Kentucky (Mr. TALBOT.) But he was averse to paying so high a deference to this particular claim, as to provide for it alone; because he considered it unfounded; and that the document of June 20, 1797, here claimed to be a grant, was nothing more than an exercise of the legislative branch of the Baron de Carondelet's powers, appropriating a district of country for the satisfaction of the individual claims, such as they stood under the contract of March 17, 1795. An act similar in its effects to the appropriations of this Government for the satisfaction of the officers of the Revolutionary war, and the soldiers of the late war. The import and meaning of such an act of appropriation was, that the title remained in the Government, subject to be thereafter granted out upon the performance of legal requisites, and the surplus, if any, belonged to the Government. Whereas an act of grant imported, that the title was then parted with, and vested in another. The claims of the Marquis had already been confirmed, Mr. B. said, to a greater extent than he was entitled to, and therefore he was opposed to special legislation upon this particular case.

THURSDAY, February 14.

The PRESIDENT communicated a letter from the Postmaster General, transmitting a statement of all contracts made by the Post Office Department during the last year; and the letter and statement were read.

On motion by Mr. PLEASANTS, the Committee on Naval Affairs, to whom was referred the message from the President of the United States, transmitting a report of the Secretary of the Navy, made in obedience to a resolution of Congress, relative to the survey of the coast of North Carolina, were discharged from the further consideration thereof, and it was referred, together with the

accompanying report, to the Committee on Commerce and Manufactures.

MR. RUGGLES presented the memorial of a number of the inhabitants of the State of Ohio, praying the adoption of measures for the civilization and improvement of the Indians. The memorial was read, and referred to the Committee on Indian Affairs.

MR. CHANDLER presented the petition of Joseph C. Boyd, of Portland, Maine, late district paymaster of the United States Army, praying relief in the settlement of his accounts. The petition was read, and referred to the Committee of Claims.

MR. RUGGLES laid before the Senate sundry documents relating to the claim of Rebecca Hodgson; which were read, and referred to the Committee of Claims.

MR. NOBLE presented the petition of James Livingston, and others, inhabitants of the State of Indiana, praying the establishment of a certain post route. The petition was read, and referred to the Committee on the Post Office and Post Roads.

MR. SMITH presented the petition of a number of the inhabitants of the city of Charleston, South Carolina, praying the establishment of a certain post route. The petition was read, and referred to the Committee on the Post Office and Post Roads.

The bill to define admiralty and maritime jurisdiction was read the second time, and referred to the Committee on the Judiciary.

The bill to authorize the building of a lighthouse at Stonington Point, in the State of Connecticut, was read the second time, and recommended to the Committee on Commerce and Manufactures.

The bill granting the right of pre-emption to actual settlers on the public lands, in the State of Illinois, was read the second time.

The Senate resumed the consideration of the motion of the 13th instant for requesting the President of the United States to make known to the Senate the annual disposition which has been made of the sum of fifteen thousand dollars, appropriated by an act of Congress of the year 1802, to promote civilization among friendly Indian tribes, and agreed thereto.

The Senate resumed the consideration of the report of the Committee on Finance, on the memorial of the Trustees of the Transylvania University; and the further consideration thereof was postponed until Thursday next.

On motion of Mr. PLEASANTS, the Senate took up for consideration the bill from the other House making partial appropriations for the naval service of the present year.

MR. PLEASANTS recapitulated the facts contained in the letters from the Secretary of the Navy to the Committee of Ways and Means of the other House, to show the necessity of anticipating, as early as possible, a part of the annual appropriation, for the purpose, principally, of fitting out an additional force for the protection of our commerce in the West India seas, &c.

FEBRUARY, 1822.

Maison Rouge's Claim.

SENATE.

The bill was ordered to a third reading; and, on motion of Mr. PLEASANTS, the bill was forthwith read a third time, by general consent, passed, and returned to the other House.

On motion by Mr. LOWRIE, the Senate resumed, as in Committee of the Whole, the consideration of the bill entitled "An act for the apportionment of Representatives among the several States, according to the fourth census;" and the further consideration thereof was postponed to and made the order of the day for to-morrow.

Mr. DICKERSON, from the Committee on Commerce and Manufactures, to whom was referred the resolution directing the classification and printing of the accounts of the several manufacturing establishments and their manufactures, collected in obedience to the tenth section of the act to provide for taking the fourth census, reported the same without amendment.

MAISON ROUGE'S CLAIM.

The Senate then again proceeded to the consideration of the bill confirming the title of the Marquis de Maison Rouge—the motion made on yesterday by Mr. TALBOT to refer this and all similar claims to the adjudication of the judiciary being the question pending.

Mr. VAN DYKE, thinking that each of these large cases ought to stand on its own merits, as it comes before Congress, moved to amend the motion so as to refer the claim of Maison Rouge alone to the decision of the courts.

Mr. EATON supported the amendment, deeming it inexpedient to refer the other great claims now pending, on which there was less difficulty than in the present claim.

Mr. JOHNSON, of Louisiana, thought the whole of those claims (so many years pending) should be brought immediately before the judiciary, where they must ultimately be brought, as they could never be finally adjudicated in any other way, and in such manner as would insure an early decision, as it was all-important to the claimants, to the United States, and, more than all, to the State of Louisiana, so large a portion of which was covered by the claims, and its prosperity so much affected by delay, that they should be speedily adjusted and finally settled—accompanying his remarks with a brief history of the proceedings on the prominent claims—and avowing also his belief in the justness of the present claim.

Mr. BARTON was averse to the reference of this special case to the judiciary, but would prefer a general act referring all such to that tribunal; and he offered a few remarks to show the superiority of that mode of adjusting such titles over a settlement by the Legislature.

Mr. OTIS was in favor of the amendment, but if not agreed to, he should still vote for the general proposition, considering it highly proper that a tribunal should be provided by which these rights may be decided correctly and finally; and deprecating a decision of them and this claim in particular by Congress.

Mr. HOLMES, of Maine, could perceive no reason for referring this claim to the Judiciary,

any more than the various other claims which are presented to Congress, pecuniary as well as others; and endeavored to show that, if Congress could not trust themselves to decide these claims for land, it would be much more dangerous to the public interest to submit them to a jury or a tribunal of the vicinity in which the claimant resides. He also went considerably into the merits of this claim to show its illegality, and that it was not entitled to the preference proposed.

Mr. BROWN, of Louisiana, replied to the latter part of the preceding remarks, and vindicated his former arguments in support of the genuineness and validity of the title of Maison Rouge.

Mr. TALBOT also replied to Mr. HOLMES, and enforced the expediency of the course he had proposed; supported the superiority of courts and juries to examine and determine such claims; that all claims were worthy of it; that it was the most prompt and most cheap, if not the most enlightened mode of adjudication; that even if Congress were properly constituted for such decisions; there was no hope of a final decision here—some of these claims having been prosecuted before Congress twelve or fifteen years—one of which (Winter's) turned on the construction of a single word, wherein there was no shadow of doubt as to the genuineness of the claim—and in following it up to obtain a decision, the original claimant died here in penury. He had no particular objection to the amendment, if it was thought best, though he had no doubt a general provision would have, of necessity, to be passed before long.

Mr. HOLMES, of Maine, contended, that for all those purposes, Congress was a court of justice, and an impartial court of justice; that it was as capable and as willing to do justice as any jury; that Congress was not a party, but the umpire between a petitioner and the people, though he professed the highest veneration for the institution of the trial by jury.

Mr. JOHNSON, of Louisiana, replied that, admitting Congress to be a competent and impartial tribunal, still their decision could not be final, as it could not divest a right, nor the individuals be deprived of a judicial trial; so that, after wasting years on them, the individuals could resort to the courts; and it was expedient at once to refer these claims to the ultimate tribunal; concluding with some remarks on the claim of Maison Rouge, which he believed, after a particular examination of the title, to be legal and complete.

Mr. MACON thought it was immaterial how this question was decided, as the special law would soon bring on a general one. As to the blame of delay, the delay in deciding cases arose often from the friends of petitioners, and there was just as much delay in the courts of justice as here; the law's delay had become a toast. He did not like this unjust blame of Congress. Pass the bill, and it would be for the rich only—for the poor could not afford to go to law, much less to follow up a suit to the Supreme Court. The talk for some time had been, that the Court had more business than it could perform; and it now was proposed to take business belonging properly to the Legis-

SENATE.

Proceedings.

FEBRUARY, 1822.

lature and throw it on the court. His objection was, it gave the rich two chances—first here, and then in court.

Mr. EATON adverted to the great claims of Winter, Bastrop, &c., to show the bad effects on the country in which they were situated, that arose from the delay to decide on them; and he reviewed briefly the nature of these claims, to show that they could not be adjusted so well, if ever adjusted at all, in Congress as by the judiciary. After eight days' debate, this claim was just where it was at first, and the sense of the Senate could not be conjectured. He would not open the door to all claims, but refer those specifically which appeared to require and to justify it.

Mr. VAN DYKE had always deemed the right of petition one of the most valuable features in the Government under which it was the happy lot of the American people to be cast; and he was always ready to receive and pay due attention to all which were presented here. He was opposed to a general reference, because it would be impossible for any committee to examine and report on all of them at this session; because the present case was now understood, the evidence before the Senate; and, if an attempt were made to refer it, with others, to the judiciary, it would certainly fail. He argued at some length on different points bearing on the question.

Mr. SMITH thought the trial by jury the great palladium of the liberties and rights of the people, but not the proper tribunal for such cases as this. It belonged especially to Congress—it was a part of the duties which they were sent here to perform—there was plenty of time for it, as there was no period fixed for an adjournment; and he had no idea the session would close until about the second quarter of the moon in May. He spoke some time to show the inexpediency and danger to the public interest of referring those claims to the courts, and particularly against the amendment offered to take the present case alone. He denied the superior promptitude of the courts in deciding, where it was notorious that causes remained undetermined for ages, and whole generations of parties passing away without obtaining a decision.

The question being taken on Mr. VAN DYKE's amendment to confine the reference to the claim of *Maison Rouge*, it was carried—yeas 26.

Mr. MACON observed that, as this was the first time in which this principle was adopted by Congress, he requested the yeas and nays on the question.

The question was then taken on the proposition to refer the claim to the judiciary, and decided by yeas and nays as follows:

YEAS—Messrs. Benton, Brown of Louisiana, D'Wolf, Eaton, Edwards, Elliott, Findlay, Gaillard, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lloyd, Lowrie, Mills, Otis, Palmer, Parrott, Seymour, Southard, Stokes, Talbot, Taylor, Thomas, Van Dyke, Williams of Mississippi, and Williams of Tennessee.—29.

NAYS—Messrs. Barbour, Barton, Boardman, Brown

of Ohio, Chandler, Dickerson, Holmes of Maine, Macon, Morril, Noble, Pleasants, Rodney, Ruggles, Smith, Van Buren, and Walker.—16.

So it was ordered that the bill be recommitted to the Committee on Public Lands, with instructions to prepare and report a bill providing for the adjudication of this claim by the regular judicial tribunals of the United States, reserving to either party the right of appeal to the Supreme Court, agreeably to the provisions of the existing laws regulating appeals.

FRIDAY, February 15.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to the Senate a report from the Secretary of State, containing the information required by the resolution of the Senate of the 4th instant.

JAMES MONROE.

WASHINGTON, Feb. 12, 1822.

The Message and accompanying report were read, and, on motion, by Mr. RUGGLES referred to the Committee of Claims.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of Lawrence Muse, of Tappahannock, in the State of Virginia, made a report, accompanied by a resolution that the prayer of the petitioner ought to be granted.

Mr. LANMAN submitted the following motion for consideration:

Resolved, That a sum not exceeding one hundred and seventy dollars be applied, out of the contingent fund, for placing a neat monument, with a suitable inscription, over the tomb of the Honorable JAMES BURRILL, deceased, late a member of the Senate from the State of Rhode Island.

The resolution was read, and passed to the second reading.

Mr. FINDLAY presented the petition of a number of the inhabitants of Westmoreland, Somerset, Bedford, and Franklin counties, in the State of Pennsylvania, praying for the establishment of a post route from Hagerstown, in Maryland, through Mercersburg, to McConnelstown, Pennsylvania. The petition was read, and referred to the Committee on the Post Office and Post Roads.

Mr. RODNEY presented the petition of Issachar Thorp, and others, cotton manufacturers and calico printers, of Philadelphia, trading under the firm of Thorp, Siddall, & Co., praying to be allowed the interest on a specific debt due by the United States, the payment whereof had been withheld. The petition was read, and referred to the Committee of Claims.

Mr. BARTON, from the Committee of Claims, to whom was referred the petition of Matthew McNair, made a report, accompanied by a bill for the relief of Matthew McNair. The report and bill were read, and passed to the second reading.

Mr. THOMAS, from the Committee on Public Lands, to whom the subject was referred, reported a bill to establish an additional land office in the State of Illinois. The bill was read, and passed to the second reading.

FEBRUARY, 1822.

Apportionment Bill.

SENATE.

Mr. SEYMOUR presented the petition of John S. Larrabee, and others, who were bail and sureties for Walter Sheldon, as district paymaster in the Army of the United States, praying relief. The petition was read, and referred to the Committee of Claims.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the conveyance of a tract of land to the city of New York," in which bill they request the concurrence of the Senate.

APPORTIONMENT BILL.

The Senate proceeded to the consideration of the bill to apportion the number of Representatives according to the fourth census—the amendment reported by the Judiciary Committee, to strike out forty thousand and insert forty-two thousand as the ratio, being under consideration. A division of the question being required, the question was first taken on striking out forty thousand and carried—yeas 22, nays 16.

The question being then on filling the blank with forty-two thousand, a debate followed of considerable duration, of which the following sketch presents only the most prominent points.

Mr. KNIGHT opposed this number on the ground of the injustice which it would do to the State of Rhode Island, as that State would be left with but a single Representative for eighty-three thousand citizens—her relative proportion of taxation entitling her to a larger relative proportion of representation, which he exhibited a number of statements to show.

Mr. R. M. JOHNSON, of Kentucky, opposed this amendment because he was in favor of a smaller ratio—contending that a larger number of Representatives was expedient; that it was impossible to fix the number which it would in time reach—a *ne plus ultra* of representation. That representation ought to keep pace with the growth of the nation, at least to the number of five hundred representatives; this being the principle, the main-spring, and the safeguard, of the liberties of the people. He also opposed a ratio that would reduce the representation of the old States, though he feared that the case of the State of Delaware was hopeless, &c.

Mr. SMITH said the committee was not unanimous on the amendment; he for one was in favor of a lower number, of thirty-eight thousand five hundred, for instance, which would leave the smallest aggregate fraction; but forty-two thousand was the only one they could get a majority for. He had an eye, in his views, to the State of Delaware, which he was not without hopes to see accommodated. The number of Representatives which such a ratio as would embrace her would give, was not the highest point which it ought to reach; nor had the time arrived at which the number of Representatives ought to be limited; no number which had been proposed would exceed what might be fairly considered reasonable and proper.

Mr. BARBOUR adverted to the proposition he had

introduced to amend the Constitution so as to fix the number of Representatives, (as he had intimated, at two hundred)—the expediency of which he defended, being called on to do so by the remarks which had been made in the course of this debate. In making this proposition, he had not trusted his own judgment; he had gone to the oracles of the land for counsel—to the venerable statesmen who had retired from public life, and were qualified to give an enlightened and dispassionate opinion, and from them there was but one response in its favor—not that he wished this number or that—not that he preferred two hundred, (though he had mentioned it, for the sake of round numbers,) for he was willing to go to the three hundred if it should be deemed expedient—but he wished the principle of limitation to be adopted and the number fixed at some point. He then proceeded to support the amendment and point out the advantages of a ratio of forty-two thousand which would give about two hundred Representatives—the disadvantages of a larger number, as bearing an undue proportion to this body, which he viewed as the sheet anchor of the liberties of the nation. These views Mr. B. illustrated and enforced by a variety of arguments. He deprecated the adjustment of this question by looking to minor considerations, hard as it would bear on the small States, and repugnant as that would be to his feelings—but there was no reason certainly as yet, whatever the necessity might be deemed for it hereafter, to exceed the number of two hundred Representatives. He would, therefore, vote for forty-two thousand, but, if that failed, he would go for thirty-eight thousand five hundred; for he thought, if the ratio was not materially increased, it would not be worth while to curtail the old States for the sake of the little which would be gained by increasing the ratio to forty thousand. He concluded by saying, that, hopeless of his amendment to the Constitution, he would assure the Senate it would be the last he should ever offer; for he began to believe that no amendment of that instrument whatever, however proper, could be carried through.

Mr. CHANDLER said, that though forty-two thousand would suit his State better perhaps than any other, yet he was willing to take forty thousand, as it came from the other House, rather than set the whole subject afloat again by altering the ratio they had adopted.

Mr. LLOYD presumed every possible calculation had been made, and every number had been tried, in the other House, before it settled down on forty thousand; that it related to their own numbers, and it in a manner belonged to them to fix the ratio; and that, whatever number was adopted by the House of Representatives ought to be agreed to here, unless some strong reason should appear for resisting it. The Senate had doubtless the Constitutional power, but he would not consent to exercise that power and disagree to the ratio adopted by the other House, unless the necessity should be great and apparent. No such necessity appeared, and he therefore opposed any alteration of the ratio adopted by the other House—by the

SENATE.

Proceedings.

FEBRUARY, 1822.

immediate Representatives of the people. Mr. L. supported this view at some length, and replied to the gentlemen who had supported a larger or a smaller ratio than forty thousand.

Mr. KING, of Alabama, adverted to the fact that there was no return of the population in six of the counties of that State, in consequence of the death of the officer. If the number was now fixed, it would do injustice to that State; and he hoped the bill would be recommitted, that provision might be made for having the unreturned population of Alabama represented, as the unavoidable delay would certainly not justify the denial of the full representation of the State. If provision be not thus made, he should vote for the highest number proposed. But to allow time for his colleague and himself to prepare a distinct proposition, he moved to postpone the bill to Monday.

The postponement was supported by Mr. WALKER, of Alabama, for reasons similar to those suggested by his colleague, which he enlarged upon at some length.

Mr. KING, of New York, thought the provision could be brought forward in a separate bill, if it were expedient to authorize such an one, without delaying or interfering with the progress of the present bill, which he thought it better to proceed with, and bring to a close; and expressed his acquiescence in the ratio of forty thousand, which perhaps would be about as equitable as any other, and being unwilling to reject, without strong reasons, the number agreed on in the other House after long consideration—being a subject in which the greatest deference ought to be paid to the decision of that branch; though he disputed not the competency of this branch to dissent, and to judge for itself, which in fact was done at a former census, and the amendment of the Senate agreed to by the other House.

Mr. LOWRIE concurred in the justice of the course proposed by the gentleman from Alabama, and he should be willing to insert a section in the bill providing for the case. It was a matter of some surprise to him that the various causes, of casualty, death, resignation, or insufficiency of compensation, for taking the census in some parts, had not produced other omissions of a similar kind, and this ought certainly to be provided for. The Senate could, however, proceed with the question before it—but he would not object to a short postponement if insisted on.

After some further debate, touching occasionally on the main question—in which Messrs. WALKER, OTIS, and VAN BUREN, joined, the bill was postponed to Monday.

The Senate adjourned to Monday.

MONDAY, February 18.

Mr. HOLMES, of Maine, presented the petition of Wentworth Ford, of the State of Maine, praying a pension, in consideration of Revolutionary services; and the petition was read, and referred to the Committee on Pensions.

Mr. JOHNSON, of Louisiana, presented the petition of Clarence Mulford, praying to be reim-

bursed for certain advances made by him on public account, while acting as assistant military agent, at Fort Johnson, in South Carolina; and the petition was read, and referred to the Committee of Claims.

Mr. BARTON communicated certain resolutions of the General Assembly of the State of Missouri, requesting their Senators and Representatives in Congress to use their influence to procure the passage of a law, to extend to all settlers on the Upper Gasconade, the right of pre-emption, who have erected saw mills on lands of the United States.

Mr. RUGGLES from the Committee of Claims, to whom was recommitted the petition of Rebecca Hodgson, with the report of the said committee thereon, made a further report, which was read.

Mr. THOMAS, from the Committee on Public Lands, to whom was recommitted the bill for the relief of the heirs and representatives of Alexander Montgomery, reported the same with an amendment; which was read.

The bill brought up from the House of Representatives on Friday last for concurrence, was read, and passed to a second reading.

The Senate resumed the consideration of the report of the Judiciary Committee on the petition of Abel Pratt; and, in concurrence therewith, resolved, that the prayer of the petitioner be not granted.

The Senate proceeded to consider the report of the Committee of Claims on the petition of Lawrence Muse; and, on motion by Mr. PLEASANTS, it was laid on the table.

The bill for the relief of Matthew McNair; the bill to establish an additional land office in the State of Illinois; and the resolution to erect a monument over the tomb of the Honorable JAMES BURRILL, deceased; were severally read the second time.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the preservation of the timber of the United States in Florida," in which they request the concurrence of the Senate.

The bill last brought up for concurrence was twice read, by unanimous consent, and referred to the Committee on Naval Affairs.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the judicial power of the United States, in all controversies to which a State shall be a party; and, on motion by Mr. JOHNSON of Kentucky, it was postponed to this day fortnight.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to amend the act, entitled "An act to incorporate the subscribers to the Bank of the United States; and, on motion by Mr. VAN BUREN, it was further postponed to Monday next.

The Senate took up the bill supplementary to the several acts for adjusting the claims to land, and establishing land offices in the district east of the island of Orleans.

FEBRUARY, 1822.

Apportionment Bill.

SENATE.

Mr. EATON moved to recommit the bill to the Committee on Public Lands; which, on motion, after some opposition by Mr. JOHNSON, who feared that any further delay would be fatal to its passage, during the present session, the bill was recommitment.

The Senate then resumed the consideration of the bill for the relief of Ebenezer Stevens, and others, representatives of Comfort Sands, and others; the motion still pending to strike out the clause allowing interest on that part of the claim which the bill proposes to grant.

A long debate again ensued on this question, and the merits of the claim generally, which continued till past four o'clock. Finally the motion to strike out the interest prevailed, by a small majority.

AMENDMENT TO THE CONSTITUTION.

Mr. BARBOUR, with the view of postponing the resolution which he had introduced (proposing to amend the Constitution so as to limit the number of Representatives in Congress) to a day beyond the passage of the apportionment bill, which it would be desirable to have definitively acted on before the resolution should be further discussed, moved to take up the resolution; which motion prevailing, Mr. B. said he would take this opportunity of correcting a misapprehension which appeared, by what had been published, to have taken place, of the remarks which he had offered on Friday in reference to this subject. In speaking of the oracles of the land, whom he had consulted, as to the expediency of this amendment of the Constitution, he did not refer to those statesmen who had retired from public life, he meant to say that he had consulted with venerable characters who had advanced so far in life that it was reasonable to suppose they were free from all influence of personal considerations; that the measure of their experience was full, and adding disinterestedness to the lessons of experience, their opinions might be looked on as the oracles of political wisdom; these men, however, to whom he referred and whom he had consulted, had not retired to private life; they were still engaged in the discharge of public duties. Mr. B. thought it proper to make this explanation, lest it might be inferred that he had alluded to some of the venerable men, now no longer in the service of their country, and make them responsible for opinions on a subject on which he had not consulted them. Mr. B. concluded by moving to postpone the resolution to this day fortnight; which was agreed to.

APPORTIONMENT BILL.

The Senate resumed the consideration of the bill to apportion Representatives among the several States, according to the fourth census; the motion to insert a ratio of 40,000 being still pending.

Mr. KING, of Alabama, after repeating the disadvantage which that State labored under from not having her population fully returned, (which arose from the death of the first marshal, and the inability of the second to complete the business within the prescribed term,) and the propriety of making provision for the case, when the returns

shall be received, stated that he had an amendment provided to meet the case, which he would offer now if in order, but that not being the case, he moved to recommit the bill to the Judiciary Committee, with instructions to report a provision, substantially, to give further time for completing the census in that State, and that the next session be authorized to allow, by law, such additional number of Representatives as the State may be entitled to by the ratio now adopted. Mr. K. accompanied this motion with a number of remarks, further explanatory of the circumstances which justified the course he proposed.

A pretty wide debate followed on this motion, of which the following is a brief summary:

Mr. HOLMES, of Maine, opposed the recommitment on account of the delay it would cause.

Mr. OTIS also opposed it on the ground that the apportionment was made imperative at a particular time, by the Constitution; that this operation was indivisible; that it must be done wholly and entirely at one time—not partial, or by piecemeal; and that such an indulgence would be in violation of the Constitution; at any rate he thought some partial inconvenience had better be sustained than a system be commenced which would lead to mischief. He inquired whether the same rule could be applied to laying a direct tax, to be contingent as to any one State; and if it could not in that case, whether it could in the analogous case of apportioning representation? He thought the objection insuperable, and spoke at much length to sustain his opinions. The case, he agreed, was a hard one, but it was without a remedy.

Mr. CHANDLER thought it would open a way for unfairness in accommodating the number of the population to be ascertained to the ratio adopted so as to avoid a large fraction; and that it would be a bad precedent and might hereafter be extended to other States.

Mr. LOWRIE did not think the recommitment necessary, though he was friendly to the amendment. He was opposed to any delay in the progress of the bill to attain an object which could be accomplished without any delay.

Mr. WALKER maintained the propriety of the recommitment, and the delay of a few hours, or even of a day, ought not to be considered any obstacle, if it were to avert manifest injustice from a State. He replied to Mr. OTIS at some length, to obviate his objections, and pointed out former instances in which further time was given to complete the census of a State—at the census of 1790 one of the returns was received in 1792—but then, as would be in the case of Alabama now, the number returned was in reference to its actual number in 1790, when the other States were enumerated. There was nothing in the Constitution, he argued, which would forbid even the changing of the ratio, or the making of any other regulation concerning the apportionment; what was asked now, had been granted before. A mistake, he thought, pervaded all that Mr. O. had urged, to show which he cited the cases of the admission of the new States, since the last census, previous to which their population

SENATE.

Proceedings.

FEBRUARY, 1822.

was in each instance ascertained, and the representation apportioned. In doing this the Constitution was fulfilled, not violated. As to taxation, if a member be added to Alabama, her taxation would of course be in proportion; but even if not fully represented, and taxation were to become necessary, (and this would show the hardship of the case,) Alabama would be taxed according to her population, though she were represented only partially. Mr. W. replied at large to Mr. O., and to sustain the recommitment.

Mr. BARTON said, the clause in the Constitution, requiring the census to be taken within every term of ten years, had for its object the ascertainment of the increased or diminished numbers of the States at the end of the last term. That clause is directory to Congress; it is their duty to pass the requisite laws; but if, from negligence or public calamity, they should fail to do so within the proper time, the rights of the States would not be affected by such failure. So the act of Congress is directory to the marshals to take the census within the limited time; but should they fail, the failure cannot affect the rights of a State to its due representation. It is understood that, under the form of proceeding, a recommitment of the bill is necessary to give to Alabama the benefit of her real numbers; and therefore the small loss of time to be incurred by the recommitment is not a sufficient reason against that course.

Mr. DICKERSON was in favor of adopting some mode which should give the State her full representation—it could not be denied to her—taxation and representation must go together, and as the State would be taxed, if necessary, according to her full population, her representation ought to correspond with her real population. He thought it better, however, to proceed with the bill, and pledged himself to support, hereafter, any measure which would do justice to the State.

Mr. BROWN, of Louisiana, put a case: Suppose it to become necessary to lay heavy taxes, and it should be discovered that a marshal had returned but one-half of the population of a State, would Congress refrain from taxing the State according to its real numbers? There was no reason, he argued, for allowing a defect in her returns to deprive her of a just representation. To be fairly taxed the State must be fairly represented; they were inseparable, and injustice should not be done to a State in a matter so important, by an accidental omission.

Mr. JOHNSON, of Kentucky, argued that representation and taxation ought and must go together; that justice could not be denied to the State in this particular; sometimes Congress seemed to consider itself omnipotent, and at others that they were unable to do an act of common justice. He should most decidedly support the amendment.

Mr. KING, of Alabama, spoke to show (in reply to some suggestions which had been thrown out) that his object could only be attained by recommending the bill, and to show also that, if Alabama did not obtain justice now, it would be in vain to seek it hereafter. Her only chance was to obtain the provision in the present bill.

Mr. MILLS argued to show that there would sometimes cases arise, in which the letter of the Constitution could not be adhered to; in such cases Congress ought so to act as would fulfil most nearly the injunction or the spirit of the Constitution. He cited possible cases in which the whole returns of a State might be destroyed by fire, or other accident, so late as to prevent the census from being taken again within the prescribed time; would it be said that, in such an event, the State must be deprived of its representation in the other branch of the Legislature? Certainly not. The provision which they were now called on to provide for, was not the omission of Alabama—it was of our own officer, and the State should at least not suffer by a neglect or an omission not her own, but ours. He agreed with Mr. WALKER, in the argument drawn from the admission of new States, to show that the Constitution would no more be violated by the provision now proposed in the case of Alabama, than in those cases, &c.

Mr. VAN BUREN saw many difficulties in the adoption of this provision. It brought up the question, whether an apportionment could be made under the Constitution more than once in ten years? This was a question of deep interest to the States which were rapidly growing, as well as to those which were more stationary, and it would be well for members to look at the subject well before they adopted a principle which might lead they knew not to what consequences. He had no objection to the recommitment, if separated from any instructions, but not otherwise.

Mr. KING, at this suggestion, and others, withdrew that part of his motion which embraced the instructions; and then the bill was recommitted.

TUESDAY, February 19.

Mr. THOMAS, from the Committee on Public Lands, to whom was referred the memorial of John F. Ross, and others, of Indiana, in behalf of William Conner, reported a bill granting a tract of land to William Conner and wife and their children. The bill was read, and passed to the second reading.

Mr. HOLMES, of Maine, from the Committee on Finance, to whom the subject was referred, reported a bill for the relief of Samuel H. Walley and Henry G. Foster. The bill was read, and passed to the second reading.

Mr. NOBLE presented the petition of Smith Turner, praying to be reinstated on the pension roll. The petition was read, and laid on the table.

The bill to authorize the reconveyance of a tract of land to the city of New York, was read the second time, and referred to the Committee on Military Affairs.

The Senate resumed the consideration of the bill for the relief of Ebenezer Stevens, and others; and it was postponed until Monday next.

The bill for granting a pre-emption right to N. Osburn and W. Doak, was taken up, and ordered to be engrossed for a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief

FEBRUARY, 1822.

Preservation of Timber.

SENATE.

of the President and Directors of the Planters' Bank of New Orleans; and, on motion by Mr. CHANDLER, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of James H. Clark; and the further consideration thereof was postponed until Monday next.

Mr. LLOYD presented the petition of Robert Wright, praying that he may be allowed the expense attending the transportation of the servants and baggage of his son, Major Clinton Wright, who was drowned whilst descending the Flint river, then Assistant Adjutant General of the United States. The petition was read, and referred to the Committee on Military Affairs.

Mr. JOHNSON, of Louisiana, presented the petition of a number of planters and inhabitants of the Parish of West Baton Rouge, in Louisiana, praying that a number of settlers on a tract of land belonging to the United States, and who have improved the same, by making a levee, may receive grants therefor, or other relief. The petition was read, and referred to the Committee on Public Lands.

PRESERVATION OF TIMBER.

The bill from the House of Representatives, for the preservation of the timber belonging to the United States in Florida, authorizing the employment of the land and naval forces for the purpose, was taken up.

Mr. PLEASANTS explained the object of the bill, the necessity for the passage of which was founded on the fact, that as many as two or three hundred persons are now engaged in cutting down and sending off the valuable ship timber on the public lands in Florida.

Mr. VAN DYKE suggested that, under the general laws for preventing depredations on the public lands, the Executive now had the power to expel the depredators. He thought the provision now wanting was one for the prosecution and punishment of the depredators.

Mr. OTIS, with deference to the opinion of Mr. VAN DYKE, suggested a doubt whether, under the present laws, the President had power to employ the naval force to prevent the depredations on the public lands. It was necessary at present, not so much to prosecute the depredators, but to take in the manor—to proceed against them decisively and promptly, to preserve this valuable property.

Mr. PLEASANTS said, that if the President, under the present laws, had power to employ the military force for this purpose, he had no power, whatever, so to employ the naval force.

Mr. VAN DYKE, desiring to take any necessary measures for the protection of public property, would not oppose this bill as it stood, since the naval force was not now at the disposal of the President for the purpose. He thought, however, that some provision ought to be made for the prosecution of persons committing these trespasses.

The bill was then ordered to be read a third time, and was read a third time and passed.

APPORTIONMENT BILL.

Mr. SMITH, from the Committee on the Judiciary, reported an amendment to the apportionment bill, in the words following:

Be it further enacted, That, as the returns of the marshal of the State of Alabama are not complete, in consequence of the death of the former marshal, who commenced the enumeration in said State, nothing in this act contained shall be construed to prevent the State of Alabama from having three representatives, if it shall be made to appear to Congress, at their next session, that the said State, at the time of passing this act, would have been entitled to that number, according to its population, and the ratio hereby established, if the said returns had been complete.

The Senate then proceeded to consider the said bill and amendment. The latter presenting itself for consideration, and the question being on agreeing thereto—

Mr. CHANDLER, of Maine, assigned various reasons why he was opposed to the amendment. Passing by the consideration, that it proposed an inducement to the officers employed in taking the returns to make the numbers as large as they could, he said he did not like to legislate contingently, and should therefore prefer legislating on this subject when the actual population of the State of Alabama should have been ascertained. He considered this amendment as proposing to break in upon the Constitutional provision that the census should be taken once in every ten years. It was a loose way of doing business, and, he apprehended, would form a bad precedent for future occasions.

Mr. LANMAN, of Connecticut, said that the subject involved in this amendment, (the right of representation,) was one on which the legislation of Congress, and interpretation of the provisions of the Constitution, ought to be most liberal. He was in favor of this amendment, as going to secure to the people of Alabama their Constitutional right. It could not be calculated, in the present instance, or with a view to its coming into precedent, that the provision of this amendment could lead to imposition. It could hardly be calculated that any man would consent to die during the taking of the census, in order to procure a postponement of the census in any State to a future day. In the case now under consideration, the marshal had died before the census was completed; in consequence of which the population of six counties in the State of Alabama was not enumerated, and, unless this amendment prevailed, would remain for the next ten years unrepresented. For such a case of providential act, he could see no objection to legislating, particularly as it was now only proposed to introduce into the bill a provision for bringing the subject before the next Congress.

Mr. EATON, of Tennessee, stated the difficulty which he felt in regard to this amendment. The question which it presented to his mind was not one of expediency, which would be easily settled; but it was a Constitutional one, which excluded the exercise of a discretionary power. Mr. E. then took a view of the Constitutional provisions on

SENATE.

Apportionment Bill.

FEBRUARY, 1822.

this subject, which he construed to mean that the enumeration should be completed *within* each term of ten years, and he reviewed the legislation of Congress to show that hitherto it had been in this respect conformable to the Constitution. If it should be said that, in regard to the present census, the term of ten years had been exceeded, he would reply to that argument, that it was no argument in favor of a proposed invasion of any provision of the Constitution that it had once been violated before. He also said that, if there was any doubt whether this provision was conformable to the Constitution, it ought not to be agreed to. Seriously entertaining that doubt himself, he could not vote for it.

Mr. HOLMES, of Maine, in reference to the Constitution, took a view of this amendment very different from that taken by Mr. EATON. By the Constitution, he said the States are entitled to representation according to their population respectively, and this measure is necessary to secure to one of them the enjoyment of the right. In this view, Mr. H. said, the argument of Mr. EATON went to the destruction of the Constitution. Suppose that, by any accident, or from any cause, no return should be received from one-half of the States; and that these States having grown rapidly, as, for example, Ohio has done within the last ten years, there should be no data upon which a just calculation of their population could be made—would not some provision of law be necessary to secure to these States their rightful representation? In the case of South Carolina, at the present census, the enumeration had been extended beyond the ten years; but no one had proposed on that account to reject it. If Congress, or the officers of the Government, fail in their duty, it was no reason why the States should lose their rights. To show that this was a case in which sound discretion ought to be exercised (with great caution, he admitted) by Congress, Mr. H. referred to the fact that many gentlemen in Congress wished to have fixed the apportionment before the result of the enumeration was known, &c. In this case, there was no fault on the part of the State, but the misfortune of our own officer, occasioning an omission which ought to be supplied.

Mr. FINDLAY expressed his wish that, to prevent this case being improperly drawn into precedent hereafter, the cause of the deficiency in the returns from Alabama should be recited in the amendment.

Mr. SOUTHARD, of New Jersey, conforming to this suggestion, moved to insert the words "in consequence of the death of the marshal;" which amendment was agreed to.—Yeas 37, nays 8.

Mr. KING, of New York, said that the Constitutional provision on this subject was guarded and explicit; it was also founded on considerations of very great importance to the welfare and harmony of the country. "The actual enumeration," says the Constitution, "shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct." These expressions

were such as, in the estimation of Mr. K., but one enumeration could be made within each term of ten years. The using the definite article *the*, as applied to enumeration, instead of the indefinite article *a*, gave to this provision great precision. No part of the enumeration, he understood by it, could be made after the time allowed for taking each census. The enumeration must be made within the time specified by the Constitution; and, if not so done, then it is not an enumeration within the terms of the Constitution. The enumeration "shall be made" in a certain manner, as described, and in no other; and that is the enumeration on which the apportionment is to be made. If this be the true construction, it cannot be within the Constitution to make any enumeration, or supplement to it, beyond the term of the ten years. Was there no reason, Mr. K. asked, why this should be the true construction of the Constitution? He thought there was. How much more convenient was it, that we should endure with the same numbers for a given time, than that we should be continually disturbed with questions of new enumeration, with reference to the distribution, not of power merely, but also of taxation! It was to guard against the too frequent recurrence of such questions, doubtless, that the language of this provision had been made so explicit. Mr. K. briefly examined the operation of this provision, with a view to show its conformity to the general plan of the Constitution, and its beneficial effects. If a State should double its population within any ten years, for what it lost in power it gained an equivalent in reduced taxation, &c. Proceeding to notice the case, which had been suggested, of accident preventing any enumeration being made, Mr. K. asked, what then? Does the Government stop? No; the apportionment remains as it is until another term of ten years comes round, and the apportionment of representatives and taxation of course remains the same. This he should consider as no great calamity, particularly for the future, when the actual relations of the States to each other would be less changed, with each term of ten years, than they are at present. He was not himself inclined to believe, that it was so entirely imperative on Congress to make a new apportionment at every ten years, as gentlemen seemed to believe. Suppose the fact to occur, that the increase of numbers in the several States appears, by an enumeration, to have been somewhat proportionate; there would be no inconvenience in dispensing with the apportionment. Mr. K. took a review of the times within which the first three enumerations had been made, all which had fallen within the time prescribed by the Constitution. The supplemental law extending the time for taking the last census, he said, was unadvisedly passed. At least, if he was right, that act was wrong. It was now proposed, as Congress had in that respect already done wrong, that it should now extend the wrong. To this, Mr. K. said, he could not consent. Though he regretted that dissatisfaction should exist in any quarter, he was not inclined to vote for this amendment, which, in his opinion, in-

FEBRUARY, 1822.

Apportionment Bill.

SENATE.

volved great difficulty, and which, if agreed to, would be liable to form a bad precedent for future legislation.

Mr. HOLMES, of Maine, said that, if the argument of the gentleman from New York was correct, the 20th of July would be the limit; and no returns but such as were completed before that day, ought to be embraced in the aggregates upon which the apportionments were made. It was true that, if no enumeration was made in any State, such State would retain its former representation. But suppose only half of its population should be enumerated, what then should be done? From these and other arguments which he offered, Mr. H. drew the conclusion that, if Congress were precluded from adopting the proposed amendment, they were equally prevented from acting upon any enumeration which has been made since the expiration of the precise term of ten years, of which there was more than one case included in the late census.

Mr. RODNEY, of Delaware, was in favor of this amendment, on the ground that the States have a right to representation in Congress in proportion to their population. We cannot, in all cases, give to the Constitution a literal interpretation. He believed that the rule which gives to all instruments of writing a just and reasonable construction, applied with full force to this Constitution. If, then, in consequence of any calamity or providential dispensation, an act of law has not been performed, a State ought not therefore to be deprived of her due representation in the other branch of the Legislature. He put one or two cases, which he thought gentlemen must admit could not be irremediable. Suppose the Secretary of State's office to be burned down, as did happen during the late war, and all, or a part of the returns of the census should have been destroyed, and new returns could not be obtained in time for the apportionment; would the Senate say that all the States, or any State, should therefore be deprived of its representation? Or suppose the case of a State, invaded or subjugated, (as, during the late war, a considerable portion of a State was in that situation,) and no census could be taken of its population, when a census was taken of other parts of the country. After being recaptured, could it be said that, according to the Constitution, that State, or portion of a State, must remain unrepresented, until, after ten years, another census should be taken? Any other than a liberal construction of this provision of the Constitution, Mr. R. contended, would make the means subversive of the end. The words of the Constitution, on this subject, were merely directory, not prohibitory. If it had intended to fix a limit beyond which Congress could not go, it would have provided that no part of the census should be taken after the expiration of each term of ten years. Without such a negative provision, the words of the Constitution appeared to him to impose no prohibition upon Con-

gress whatever. So far from objecting to this amendment, he should have been pleased had it been made more imperative than it now is.

Mr. WALKER, of Alabama, made some remarks in reply to the objections which had been made to the amendment. In answer to the only objection on the score of expediency, he said, that no evil could result from this provision on its own merit or as a precedent, if the principle were observed, that the population shall be in every case, as it will be in the present case, computed as it was on the first day of August, 1820, being the day on which the general enumeration took effect. He admitted that the provision of the Constitution is imperative which directs that there shall be but one enumeration in every ten years. And, said Mr. W., we ask no more than this. We do not ask for a new enumeration, but for a completion of that which has been begun in Alabama, and completed in every other State but that. He referred to the Constitution to show that representation and direct taxation were to be apportioned according to population; and asked, how that provision of the Constitution could be fulfilled, if, as in the present case, the whole population of each State was not ascertained? The "actual enumeration" spoken of in the Constitution must mean the enumeration of the whole population; and if, by an act of God or the omission of Congress, the enumeration was not so completed, was it reasonable, therefore, to amerce an innocent State? If, indeed, it had been the duty of the several States to have made the enumeration, there would have been some reason in the objections to complete that which had now been only half taken. But it was not so—the duty being altogether on the side of Congress. If they neglect that duty, they can derive no right from such neglect, nor from any accident, to deprive any one or more of the States of their rights. Suppose the Marshal of the State had refused to make any return at all—what reason would this present for leaving Alabama without representation; or what would Alabama gain by the Marshal's being fined for his neglect? Suppose, in times of commotion and party conflict, the Executive should remove one or more Marshals, and refuse to appoint successors, with a view to suppress the voice of a State hostile to those who administered the Government—would there be no remedy for such a case as this? To take the old apportionments in such a case would destroy that equality of rights among the States which is so important a feature of the Constitution. If Congress had power to extend the time for taking the census to the first day of September last, it had equal power to carry the principle further, and do what was now proposed. Mr. W. further illustrated his view of this subject by other observations; among which was the following: All the doctrines of the gentlemen opposed to this amendment resolved themselves into the distinction which had been taken between *a* enumeration and *the* enumeration; and he did not allow to such an argument the weight that had been given to it. We do know, said he, that 15,000 white persons, to say nothing of others, are to be found

within six counties in the State of Alabama from which no returns whatsoever have been made. We say that the enumeration of the State of Alabama is not complete; that therefore the actual enumeration of the whole people of the Union is not complete; and that the apportionment cannot be according to the Constitution until the enumeration is complete.

Mr. KING, of New York, rose merely to put the subject in one point of view in which he had not placed it when up before. What, said he, do we mean when we speak of enumeration? What is the definition of the word? It has two meanings: first, the act of numbering or counting; secondly, the whole number counted, or told over. The import of the Constitution as respects the present bill is, that the act of counting the population of the country shall be made within the term of every ten years, &c. Is there any doubt that this is the meaning of it? Would any counting after the expiration of the time be within the time prescribed? Certainly not.

Mr. OTIS, of Massachusetts, said, if the Constitution was imperative that the enumeration should take place within the ten years, there was an end to this question. If any other period was within the power of the Congress than that described in the Constitution, then it was in the power of Congress to fix upon no period at all. But the Constitution demonstrably fixed the period beyond the reach of Congress. Mr. O. professed that the gentleman from Delaware alarmed him when he said that the Constitution was not to be strictly construed; that it was in the power of Congress to give any latitude of construction to it whatever. If, upon the occurrence of a casualty, the words of the Constitution can be gotten rid of, why may they not without any casualty whatever? Considering the nature of this provision of the Constitution, he thought the time was a material part of the compact. Mr. O. made some further remarks to show that the inevitable necessity, under which the time for completing the returns of the census had been extended to the 1st of September last, did not exist in the present case, and that that extension did not justify the extension now proposed, &c.

The question being taken on agreeing to this amendment, the votes for and against it were as follows:

YEAS—Messrs. Barbour, Barton, Benton, Brown of Louisiana, Brown of Ohio, D'Wolf, Dickerson, Edwards, Elliott, Findlay, Gaillard, Holmes of Maine, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Knight, Lanman, Lloyd, Lowrie, Mills, Morrill, Noble, Palmer, Pleasants, Rodney, Seymour, Smith, Southard, Stokes, Talbot, Taylor, Thomas, Van Dyke, Walker, Ware, and Williams of Tennessee—37.

NAYS—Messrs. Boardman, Chandler, Eaton, King of N. Y., Macon, Otis, Parrott, and Van Buren.—8.

So the amendment was adopted.

The question was then again put on striking out 40,000, as the ratio, (the repetition of the question having become necessary by the recommen-

ment of the bill,) and was decided in the affirmative, by yeas and nays, 25 to 20, as follows:

YEAS—Messrs. Barbour, Barton, Benton, Boardman, Dickerson, Eaton, Edwards, Elliott, Gaillard, Holmes of Maine, Holmes of Mississippi, Johnson of Kentucky, Lanman, Macon, Noble, Palmer, Pleasants, Rodney, Seymour, Smith, Southard, Stokes, Talbot, Van Dyke, and Williams of Tennessee—25.

NAYS—Messrs. Brown of Louisiana, Brown of Ohio, Chandler, D'Wolf, Findlay, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lloyd, Lowrie, Mills, Morrill, Otis, Parrott, Taylor, Thomas, Van Buren, Walker, and Ware.

The ratio being blank, the question was taken on filling it with 42,000, and was decided in the negative, without debate, by yeas and nays—ayes 12, noes 32, as follows:

YEAS—Messrs. Barbour, Barton, Chandler, Edwards, Holmes of Maine, Holmes of Mississippi, Macon, Noble, Smith, Stokes, Talbot, Ware, and Williams of Tennessee.

NAYS—Messrs. Benton, Boardman, Brown of La., Brown of Ohio, D'Wolf, Dickerson, Eaton, Elliott, Findlay, Gaillard, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lanman, Lloyd, Lowrie, Mills, Morrill, Otis, Palmer, Parrott, Pleasants, Rodney, Seymour, Southard, Taylor, Thomas, Van Buren, Van Dyke, and Walker.

Mr. FINDLAY moved to fill the blank with 45,000.

Mr. EATON moved 47,000.

Mr. BARBOUR, inasmuch as a large ratio could not be obtained, was disposed to take such an one as would preserve the old States their present representation; and therefore moved 38,500.

Mr. RODNEY moved 35,000.

Mr. HOLMES, of Maine, moved 37,000.

Mr. JOHNSON, of Louisiana, moved 41,000.

Mr. ELLIOTT, of Georgia, moved 46,000.

The question was taken first on 47,000, and negatived—ayes 10.

The number 46,000 was also rejected—ayes 14.

The number 45,000 was also rejected—ayes 17, noes 27.

Mr. EATON moved 43,000, which was also rejected—ayes 8.

The question was taken on 41,000, and also rejected—ayes 12.

The question was next taken on 38,500, and also negatived—ayes 15.

The number 38,000 was then tried, on motion of Mr. BARBOUR, and lost—ayes 10.

The number 37,000 was next tried, and rejected.

The question was then taken on 35,000 and also negatived, without a count.

On motion of Mr. HOLMES, of Maine, the vote on striking out the ratio of 40,000, was then reconsidered—ayes 27; and

The question being again put on striking out the ratio of 40,000, (as the bill came from the other House,) it was decided, by yeas and nays, in the negative, as follows:

YEAS—Messrs. Barbour, Benton, Boardman, Dickerson, Eaton, Edwards, Gaillard, Holmes of Missis-

FEBRUARY, 1822.

Proceedings.

SENATE.

ssippi, Johnson of Kentucky, Lanman, Macon, Noble, Palmer, Pleasants, Rodney, Seymour, Smith, Southard, Stokes, Talbot, and Van Dyke—21.

YAYS—Messrs. Barton, Brown of Louisiana, Brown of Ohio, Chandler, D'Wolf, Elliott, Findlay, Holmes of Maine, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lloyd, Lowrie, Mills, Morrill, Otis, Parrott, Ruggles, Taylor, Thomas, Van Buren, Walker, Ware, Williams of Tennessee—25.

The bill was then ordered to be read a third time, as amended, by the following vote:

YEAS—Messrs. Barton, Brown of Louisiana, Brown of Ohio, D'Wolf, Edwards, Elliott, Findlay, Holmes of Maine, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Knight, Lloyd, Lowrie, Mills, Morrill, Noble, Otis, Parrott, Ruggles, Taylor, Thomas, Van Buren, Walker, Ware, and Williams of Tennessee—27.

NAYS—Messrs. Barbour, Benton, Boardman, Chandler, Dickerson, Eaton, Gaillard, King of New York, Lanman, Macon, Palmer, Pleasants, Rodney, Seymour, Smith, Southard, Stokes, Talbot, and Van Dyke—19.

WEDNESDAY, February 20.

Mr. JOHNSON, of Kentucky, presented the petition of Sarah McKay, of New York, widow of George Knox McKay, who was a captain in the United States Army during the late war with Great Britain, and died soon after his return home, praying for the half-pay pension for the benefit of his legal representative and infant daughters. The petition was read, and referred to the Committee on Pensions.

The bill for the relief of Samuel H. Walley and Henry G. Foster was read the second time.

The bill granting a tract of land to William Conner and wife, and their children, was read the second time.

The bill granting a right of pre-emption to Noble Osborne and William Doak, was read a third time, and passed.

Mr. JOHNSON, of Louisiana, presented the memorial of John W. Simonton, and his associates, who have formed a settlement on the island of Key West, in East Florida, praying that the same may be made a port of entry. The petition was read, and referred to the Committee on Finance.

Mr. LLOYD presented the petition of Richard Woodland, praying compensation for the loss of a vessel during the late war with Great Britain. The petition was read, and referred to the Committee of Claims.

Mr. NOBLE presented the petition of a number of the inhabitants of the State of Ohio, in favor of measures to promote the civilization and improvement of the Indians. The petition was read, and referred to the Committee on Indian Affairs.

Mr. TALBOT, from the Committee on Pensions, to whom the subject was referred, reported a bill, granting a section of the public lands to George Shannon. The bill was read, and passed to the second reading.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the bill, entitled "An act to authorize the recon-

veyance of a tract of land to the city of New York," reported the same without amendment.

Mr. HOLMES, of Maine, from the Committee on Finance, to whom the subject was referred, reported a bill for the relief of Jacob Babbitt. The bill was read, and passed to the second reading.

Mr. LANMAN submitted the following resolution for consideration:

Resolved, That the Committee on the Contingent Fund of the Senate pay out of said fund to Tobias Simpson, the sum of three hundred and sixty-six dollars, for his services during the term of two hundred and forty-four days next before the third December, 1821.

The resolution was read, and passed to the second reading.

Mr. DICKERSON, from the Committee on Commerce and Manufactures, to whom was referred the bill to continue in force "An act declaring the consent of Congress to acts of the State of South Carolina, authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports, and to acts of the State of Georgia, authorizing the imposition and collection of a duty on the tonnage of vessels in the ports of Savannah and St. Mary's," reported the same without amendment.

Mr. BARTON, from the Committee of Claims, to whom was referred the petition of Jumonville de Villier, of Louisiana, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted.

Mr. BARTON, from the same committee, to whom was referred the petition of Antoine Bienvenue, of the State of Louisiana, made a report, accompanied by a resolution that the prayer of the petitioner ought not to be granted.

Mr. BENTON submitted the following motions for consideration:

Resolved, That the Secretary of the Treasury be directed to lay before the Senate a copy of the patent (if any such there be in the Treasury Department) which issued under an act of Congress of June 1st, 1796, conveying to the Society of United Brethren for propagating the Gospel among the Heathen, three tracts of land of four thousand acres each, to include the towns of Gnadenhütten, Schoenbrunn, and Salem, on the Muskingum, in the State of Ohio, in trust to said Society, for the sole use of the Christian Indians formerly settled there.

Resolved, That the Secretary of War be requested to collect, and communicate to the Senate at the commencement of the next session of Congress, the best information which he may be able to obtain, relative to the said Christian Indians, and the lands intended for their benefit, in the above-mentioned grant; showing, as correctly as possible, the advance or decline of said Indians in numbers, morals, and intellectual endowments; whether the said lands have inured to their sole benefit; and, if not, to whom, in whole or in part, have such benefits accrued.

Resolved, That the Secretary of the Senate furnish a copy of the above resolutions to the Society of United Brethren for propagating the Gospel among the Heathen, addressed to the President of the Society, at Bethlehem, in Northampton county, in the State of Pennsylvania.

SENATE.

Petition from Pensacola.

FEBRUARY, 1822.

APPORTIONMENT BILL.

The bill to apportion representatinn among the several States according to the fourth census, was read the third time, and passed (by yeas and nays, they being requested by Mr. RODNEY, who said he would not take up the time of the Senate in stating his reasons against the passage of the bill with the ratio which had been agreed to, as the minds of the members were made up on the subject)—ayes 26, noes 19, as follows:

YEAS—Messrs. Barton, Benton, Brown of Louisiana, D'Wolf, Edwards, Elliott, Findlay, Holmes of Maine, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Knight, Lloyd, Lowrie, Morrill, Noble, Otis, Parrott, Ruggles, Taylor, Thomas, Van Buren, Walker, Ware, and Williams of Tennessee.

NAYS—Messrs. Barbour, Boardman, Chandler, Dickerson, Eaton, Gaillard, King of New York, Lanman, Macon, Palmer, Pleasants, Rodney, Seymour, Smith, Southard, Stokes, Talbot, Van Dyke, and Williams of Mississippi.

So it was *Resolved*, That this bill pass with an amendment.

PETITION FROM PENSACOLA.

The PRESIDENT of the Senate laid before the Senate a petition which he had received from Marcos de Villiers and Arnolde Guillemard, representing themselves to be ancient inhabitants of Pensacola, who have been illegally imprisoned by the acting Governor of the Territory of West Florida, and praying the interposition of Congress for their relief. The petition was accompanied by sundry documents, embracing an appeal from the petitioners to the acting Governor for their release from imprisonment, and his refusal.

Mr. BARBOUR, not knowing at the moment what would be the most proper disposition for these papers, though it was probable that a reference of them to the Executive would be most suitable, moved to lay them on the table.

Mr. LOWRIE moved also to print them; for, on hearing the papers read, he thought the reasoning of the memorial to the acting Governor was plausible, if not unanswerable; but he should like to read them.

Mr. ELLIOTT thought, as this petition would also, no doubt, be presented to the House of Representatives, it would be better for the Senate to take no step on the subject at present, but wait the proceedings of the other House, to whom perhaps inquiries into such matters, involving the conduct of Executive officers, more appropriately belonged; and that it would be better that the Senate should not adopt any course which might in anywise compromit its future proceedings, or the dignity of the body.

Mr. BARBOUR deemed it proper that each House should act independently for itself in such cases, without reference to any proceedings elsewhere.

Mr. JOHNSON, of Kentucky, presumed, as the papers involved the conduct of officers under the control of the Executive, that they ought to be referred to the President of the United States, either with or without any expression of opinion.

There was no difficulty in the case, he thought. These men were a part of the Spanish officers who had been sent out of the province by General Jackson, and had now returned to Pensacola to behave themselves as peaceable citizens, and had been imprisoned by the acting Governor. It was a case for the Executive to act on.

Mr. KING, of Alabama, calling for a division of the question, it was first taken on printing the petition and documents, and negatived—ayes 19, noes 22.

The papers were then ordered to be laid on the table.

THURSDAY, February 21.

Mr. SMITH presented the memorial of Francis Henderson and family, heirs and representatives of John Laurens, deceased, a lieutenant colonel in the Army of the United States, and some time commissioned by Congress special Minister to the Court of France, praying the allowance of a certain claim, exhibited in the memorial, with provision for the discharge of the same. The memorial was read, and referred to the Committee on Foreign Relations.

Mr. LLOYD presented the proceedings and resolutions of the Chamber of Commerce of Baltimore, respecting the restriction on commerce, recommending the repeal of the laws passed the 18th April, 1818, and the supplement thereto, passed the 15th May, 1820, which constitute what is denominated the restrictive system; which were read, and referred to the Committee on Foreign Relations.

Whereupon, Mr. LLOYD submitted the following motion for consideration:

Resolved, That the Committee on Foreign Relations be instructed to inquire into the expediency of removing the restrictions on our commerce, which are imposed by the act concerning navigation, passed on the 18th April, 1818, and "An act supplementary to an act, entitled 'An act concerning navigation,' passed on the 15th May, 1820.

The motion was ordered to lie on the table.

Mr. BENTON, from the Committee on Public Lands, reported a bill to perfect certain locations and sales of public lands in Missouri. The bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 10th ultimo, for appropriations of territory for the purposes of education; and, on motion of Mr. LLOYD, the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed the consideration of the report of the Committee of Claims, on the petition of Rebecca Hodgson; and, on motion by Mr. RUGGLES, it was laid on the table.

The Senate proceeded to consider the report of the Committee of Claims, on the petition of Antoine Bienvenue, of the State of Louisiana; and the further consideration thereof was postponed until Monday next.

The Senate also proceeded to consider the report of the Committee of Claims on the petition

FEBRUARY, 1822.

Government of Florida.

SENATE.

of Jumonville De Villier, of Louisiana; and the further consideration thereof was postponed until Monday next.

The bill granting a section of the public lands to George Shannon; and the bill for the relief of Jacob Babbitt; and also the resolution to pay Tobias Simpson, out of the contingent fund of the Senate, for services rendered, were severally read the second time.

NEW ORLEANS MAILS.

Mr. JOHNSON, of Louisiana, submitted the following resolution:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the causes of the frequent failure of the mails between the other cities of the United States and New Orleans, and that they further inquire into the expediency of providing for the conveyance of the mails to and from New Orleans, in covered carriages.

In offering this resolve, Mr. JOHNSON said that the frequent failure of the mails for several years past, on the route alluded to, had at New Orleans become a subject of serious complaint. He remarked, that repeated representations had been made upon the subject to the proper authorities, but the evil still existed. He believed, he said, that the failure of those mails was to be attributed, in a great measure, to the present mode of conveying them. They were now carried on horseback, through a wilderness of several hundred miles, and over water-courses destitute of bridges or ferries. He added, that it would be readily perceived, therefore, that the mail carriers, in swimming those streams, as they were frequently compelled to do, subjected the mails to great risk; and it was a fact, he said, that they were sometimes in consequence entirely lost, and often much mutilated. The mails generally were conveyed through the different States of the Union in covered carriages, and he could see no reason why they should not be transported in the same manner to and from New Orleans. In short, he believed that this mode of conveying the mails, if adopted, would be found not only the safest and most expeditious, but the least expensive to the Government. He hoped, therefore, that the subject would be referred to the proper committee, and that it would be deemed expedient to provide for the erection of bridges, or the establishment of ferries, over the water-courses on the route alluded to, and that the mails would be conveyed in covered carriages.

GOVERNMENT OF FLORIDA.

The Senate then, on the motion of Mr. SMITH, (who remarked that the petition from Pensacola, which had been yesterday presented to the Senate, would show the necessity of acting on the bill without delay,) proceeded to the consideration of the bill to establish a Territorial government for the Territory of Florida.

On proceeding to fill the blanks in the bill, a good deal of debate took place on the duties to be discharged by the several officers, the expenses which they must necessarily incur, the responsibility of their offices, &c.

17th CON. 1st SESS.—8

Mr. SMITH moved to allow the Governor of the Territory a salary of \$3,000.

Mr. EATON thought this sum insufficient; a Governor might be got for \$3,000, or for \$2,000, or doubtless for even \$1,000; but, if a man properly qualified for the office was to be appointed, a higher sum than \$3,000 must be given. The salary of the Governor of Orleans Territory was \$5,000, as well as that of the late Governor of Florida, and the expensiveness of the place would justify this as the future allowance for the Governor of Florida.

After some debate on the subject, in which Messrs. OTIS, SMITH, LLOYD, WILLIAMS, of Tennessee, MORRIL, PLEASANTS, and VAN BUREN, took part, the sum of \$3,000 was agreed to.

Some discussion took place also on the sum proper to be allowed to the Secretary of the Territory, (\$1,000 and \$1,500 being severally proposed.) In the end, the blank was filled with \$1,500.

The next blank to be filled related to the salary of the territorial judges. Considerable debate took place on the sum which was just and proper for these officers; in which, as well as on the preceding question, Messrs. SMITH, EDWARDS, JOHNSON, of Louisiana, MORRIL, CHANDLER, MACON, TALBOT, HOLMES, of Maine, WILLIAMS, of Mississippi, and LANMAN, joined. The debate turned principally on the extent and labor of the duties to be performed, the cost of living, the talents and learning required, &c., and comparing the sums proposed with the salaries allowed to other territorial judges, the difference, more or less, proper in the present case, &c. The question on filling the blank with 2,000 dollars was negative—ayes 16, noes 18.

The sum of \$1,800 was then tried, and carried—ayes 19, noes 17.

The per diem to be allowed to the members of the Legislative Council, while attending to their duties, was proposed by Mr. JOHNSON, of Louisiana, to be four dollars; which was negative, and three dollars were agreed on; and three dollars for every twenty miles travelling to and from the seat of government of the Territory.

On motion of Mr. WILLIAMS, of Mississippi, the act to prevent settlements on the public lands, passed in 1807, was extended, with the other acts mentioned in the bill, to the new Territory.

The salary of the district judge was fixed at \$2,000—ayes 18, noes 12.

Several other amendments being offered, and some debate ensuing, the bill was, on motion, re-committed, for the purpose of incorporating with precision some amendments relating to the collection districts, &c.

Mr. LANMAN, who was accidentally not in the Chamber yesterday, when the question on the passage of the apportionment bill was taken, obtained leave to record his name on that vote against the bill.

FRIDAY, February 22.

Mr. THOMAS presented the petition of a number

of the inhabitants of the State of Illinois, representing the disadvantages of the first settlers of that State, praying relief. The petition was read, and laid on the table.

Mr. LOWRIE, from the Committee on Public Lands, to whom was recommitted the bill supplementary to the several acts for adjusting the claims to land and establishing land offices in the districts east of the island of New Orleans, reported the same, with an amendment; which was read.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the memorial of Charlotte J. Bullus, widow and administratrix of John Bullus, deceased, late navy agent at New York, made a report, accompanied by a resolution that the prayer of the memorialist ought not to be granted.

Mr. HOLMES, of Mississippi, submitted the following motion for consideration:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of making a donation of lands lying upon the waters of Pearl river, to be appropriated under the direction of the General Assembly of the State of Mississippi, to aid in opening and improving the navigation of said river from the seat of government of the State to the Gulf of Mexico.

Mr. EDWARDS gave notice that at the next meeting of the Senate he should ask leave to introduce a bill confirming certain claims to land in the State of Illinois.

Mr. BARTON gave notice that at the next meeting of the Senate he should ask leave to introduce a bill for the relief of Rufus Easton, and the heirs of James Bruff.

Mr. WILLIAMS, of Mississippi, submitted the following motions for consideration:

Resolved, That the Committee on Finance be instructed to inquire whether any further measures are necessary for laying and collecting duties on imports and tonnage within the territories ceded by Spain to the United States by the treaty of the 22d February, 1819.

Resolved, That the said committee be instructed to prepare a bill for laying off into convenient collection districts the said ceded territories, and to provide for the appointment of the necessary revenue officers therein.

Resolved, That the said committee be instructed to inquire into the propriety of providing by law for the recording, registering, and enrolling of ships or vessels in the ceded territories.

Resolved, That the said committee be instructed to inquire and make report to the Senate whether it be expedient to authorize, in all or in either of the ports to be created within the ceded territories, the entry of ships or vessels arriving from the Cape of Good Hope, or from any place beyond the same; and, also, whether it be proper or expedient to authorize an allowance of drawback on the exportation of any goods, wares, and merchandise, from any of the ports within the said ceded territories other than on those which shall have been imported directly into the same from a foreign port or place.

Resolved, That the said committee be instructed to inquire whether any, and, if any, what, legal provisions are necessary to give effect to the 15th article of the said treaty, or so much thereof as declares that

"Spanish vessels coming laden only with productions of Spanish growth or manufactures, directly from the ports of Spain, or of the colonies, shall be admitted, for the term of twelve years, to the ports of Pensacola and St. Augustine, in the Floridas, without paying other or higher duties on their cargoes, or tonnage, than will be paid by the vessels of the United States."

The Senate resumed the consideration of the report of the Committee on Finance, on the memorial of the Trustees of the Transylvania University; and, on motion by Mr. EATON, it was laid on the table.

The Senate proceeded to consider the motion of the 21st instant for instructing the Committee on the Post Office and Post Roads to make inquiry relative to the mails between the other cities of the United States and New Orleans; and agreed thereto.

The bill to perfect certain locations and sales of public lands in Missouri was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of the President and Directors of the Planters' Bank of New Orleans; and no amendment having been made thereto, it was reported to the House; and ordered to be engrossed and read a third time.

PUBLIC LANDS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill supplementary to the several acts for adjusting the claims to land and establishing land offices in the districts east of the Island of New Orleans, together with the amendments reported thereto by the Committee on Public Lands; and,

On the question to agree to strike out the fourth section of the bill, as follows:

"SEC. 4. *And be it further enacted*, That every person comprised in the list of actual settlers reported by the said registers and receivers, not having any written evidence of claim to land in the said districts, and who, on the third of March, eighteen hundred and nineteen, shall have inhabited or cultivated a tract of land in either of the said districts, not claimed by virtue of either of the preceding sections of this act, or by virtue of a confirmation under an act, entitled 'An act for adjusting the claims to land, and establishing land offices, in the districts east of the island of New Orleans,' approved on the third day of March, eighteen hundred and nineteen, shall be entitled to a preference, on becoming a purchaser at private sale, from the United States, of such tract of land, on the same terms and conditions, and at the same price, for which the other public lands are sold at private sale: *Provided*, That no more than six hundred and forty acres of land shall be sold to any one individual in virtue of this act."

A debate arose on this proposition, which continued nearly three hours. The motion to strike out the section was advocated by Messrs. EATON, LOWRIE, and OTIS; and was opposed by Messrs. JOHNSON, of Louisiana; BROWN, of Louisiana; RODNEY, BARTON, EDWARDS, and VAN BUREN.

The question on striking out the section was finally negatived—yeas 21, nays 22, as follows:

FEBRUARY, 1822.

Society of United Brethren.

SENATE.

YEAS—Messrs. Barbour, Boardman, Chandler, Dickerson, Eaton, Gaillard, Holmes of Maine, Lanman, Lloyd, Lowrie, Macon, Mills, Morrill, Otis, Palmer, Pleasants, Ruggles, Smith, Southard, Van Dyke, and Ware.

NAYS—Messrs. Barton, Benton, Brown of Louisiana, Brown of Ohio, D'Wolf, Edwards, Findlay, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Noble, Parrott, Rodney, Seymour, Stokes, Talbot, Thomas, Van Buren, Walker, Williams of Mississippi, and Williams of Tennessee.

The bill having been amended, it was reported to the House accordingly; and, the amendments having been concurred in, on motion by Mr. EATON, it was laid on the table.

SOCIETY OF UNITED BRETHREN.

The following resolutions, moved on a previous day by Mr. BENTON, of Missouri, being under consideration, viz:

Resolved, That the Secretary of the Treasury be directed to lay before the Senate a copy of the patent (if any such there be in the Treasury Department) which issued under an act of Congress of June 1st, 1796, conveying to the Society of United Brethren for propagating the Gospel among the Heathen, three tracts of land, of four thousand acres each, to include the towns of Gnadenhütten, Schoenbrunn, and Salem, on the Muskingum, in the State of Ohio, in trust to said society, for the sole use of the Christian Indians formerly settled there.

Resolved, That the President be requested to cause to be collected, and communicated to the Senate at the commencement of the next session of Congress, the best information which he may be able to obtain relative to the said Christian Indians, and the lands intended for their benefit in the above-mentioned grant; showing, as correctly as possible, the advance or decline of said Indians in numbers, morals, and intellectual endowments; whether the said lands have inured to their sole benefit; and if not, to whom, in whole or in part, have such benefits accrued.

Resolved, That the Secretary of the Senate furnish a copy of the above resolutions to the Society of United Brethren for propagating the Gospel among the Heathen, addressed to the President of the Society, at Bethlehem, in Northampton county, in the State of Pennsylvania.

Mr. BENTON said, that he would undertake to show, by a dry detail of historical facts, the propriety of adopting them.

He said, it happened about an hundred years ago, that the followers of the sectarian Schwenkfeld were expelled, by the reigning Elector, from the Electorate of Saxony; and about the same time a Dr. Spangenburg, Theologus Adjunctus in the University of Halle, lost his place in the University on account of some dispute with the divines. Being out of employment, these individuals united in a project to cross over to the British colonies in America for the purpose of civilizing and converting the Indians; and, addressing themselves to Governor Oglethorpe, then in London, received from him the means of transportation to Savannah in Georgia. Arrived at that place, they immediately commenced their labors among the Creek Indians; founded a church and

a school at a place called Irene, five miles from Savannah, and had the greatest success, according to the published accounts, in teaching and converting the natives. The noise of their employment and success drew others from Germany, and with the increase of laborers was duly extended the field of action. They spread to the North, and entered the colony of Connecticut, being invited, as the history of the mission reports, by the Indians themselves. Mr. B. said, that he could not gainsay the alleged fact of the invitation, nor was it material to the point in hand; but he could say, that such an invitation implied a contradiction of every spring of human action, there being no principle in the breast of man, either civilized or barbarian, which can impel him to invite another to make an attack upon the articles of his faith and the sanctity of his God. Be that as it may, Mr. B. said that the Brethren (for by that name they began to be known,) established themselves in the village of Shekomeko, which, if it now stands, will be found between the rivers Hudson and Connecticut, some fifty miles west of Hartford. It was a principal town of the Mahikender tribe, and the Brethren immediately established a school and a church, and had the most wonderful success in teaching and converting. To do justice to their labors, Mr. B. said that he would read the account given of it by their own historian, Loskiel:

"In July the new chapel at Shekomeko was finished and consecrated; some of the Elders of the congregation of Bethlehem being present. The congregation usually met every forenoon to hear a discourse delivered upon some text of scripture. Every evening an hymn was sung. A monthly prayer day was likewise established, on which accounts were read concerning the progress of the Gospel in different parts of the world, and prayer and supplication made unto God for all men, with thanksgiving. The prayer days were peculiarly agreeable to the Indians; especially because they heard that they were remembered in prayer by so many children of God in other places. Both on these days and on all festival days, Shekomeko was all alive, and it may be said with truth, that the believers showed forth the death of the Lord both early and late. One day above one hundred savages came thither on a visit, and one of the missionaries observed, that, wherever two were standing together, our Lord Jesus and his love to sinners, as the cause of his bitter sufferings, was the subject of conversation."

Mr. B. said that the history went on to show that the converted Indians increased in number and grace until they became an example to the people of Connecticut. He mentioned particularly the case of a certain justice of the peace, as related by Loskiel, who came to Shekomeko to find out whether any thing was going on there contrary to the laws of the colony, and who was made ashamed of himself by the godly walk and conversation of the Indians, and returned home rebuked and edified by their example.

Mr. B. said that, continuing to increase in numbers and to widen their theatre, the brethren appeared in Pennsylvania among the Delawares and Shawnee, then in great numbers upon the Susquehanna river and in the neighborhood of Philadelphia. He mentioned Nain, Shamokin, Beth-

SENATE.

Society of United Brethren.

FEBRUARY, 1822.

lehem, Nazareth, and many other places, as founded at this time and filled with converted Indians, and read from Loskiel to show that a single congregation consisted of five hundred converts, and that the schools were thronged with girls and boys, divided into regular classes, and making wonderful progress in their studies. He alluded to the opinion of Dr. Franklin about these establishments, but passed on to the Muskingum, on the Ohio, where the vanguard of the Brethren arrived about the year 1770. Here they founded the towns of Gnadenhütten, Schoenbrunn, and New Salem, and were proceeding with their usual success, as testified by the historian, when the settlements were broken up, and themselves dispersed by the troubles of the Revolutionary war. It was not until after the return of peace in 1783 that they could return to their labors, and about this time they began to attract the notice of the American Government, and to receive from it promises of aid, in consideration of their great success in teaching and converting the Indians. He read from Loskiel, to show that the Brethren were now full of courage and confidence; that the schools and churches flourished; that the young especially exceeded the old; that their converts, in the whole, had amounted to fifteen hundred persons, "which 'they considered to be a stock large enough to be a 'light of the Lord shining into many heathen nations, for the eternal salvation of their immortal 'souls.'"

Mr. B. said it was to these Indians that the resolutions referred; for their use that twelve thousand acres of land was granted, and it was their present number and actual condition which he wished to learn. He said, it was about this time that the Brethren, with others, became incorporated, under the act of the General Assembly of the State of Pennsylvania, by the name of "The Society of United Brethren for propagating the Gospel among the heathen." The usual privileges to sue and be sued, to have and to hold real and personal estate, were imparted to it, and it was to this society that the land in question was granted in trust for the sole use of the Christian Indians of the towns he had mentioned.

Mr. B. adverted to the resolutions which he had submitted, and to the nature of the inquiry which they contemplated. He said the grant conveyed nothing but the use of the land, and that upon a precise limitation. If the use had failed, the limitation had attached, and the ground returned to the grantor. He said it would have been idle in him to undertake to put the Senate upon this inquiry, without being able to suggest a failure of the use; he therefore made the suggestion, but without going into particulars, hoping that the Senators from Ohio, so much more competent than himself, would do the Senate that favor.

Mr. B. said he was a friend to the Indians and an enemy to the abuse of charities. He believed that great abuses had been committed on public and private charity, in the name of humanity to Indians. He did not include all missionaries in this censure. He knew that the best men upon earth had engaged in that business from the purest

and most disinterested motives. He knew that the early history of North and South America was full of such examples—examples of men who, braving all dangers and hardships, died at the stake in flames and tortures, martyrs to their zeal to carry the light of the gospel into the darkest regions. Still he believed that great abuses had been committed, and he could hold it but little short of an abuse to attempt, at this day, with the experience of three hundred years before our eyes, to raise money from the weak and credulous for the purpose of converting the Indians. He said we had the experience of three hundred years, and every year of it would furnish illustrations of the truth of his position; but he would only go back two hundred, and that for the sake of a single example. Canada was then just discovered—the French held it—Henry IV. was then on the throne, and the Jesuit father Cotton was his confessor. This Jesuit conceived the design of converting the Canada Indians, and the first question with him was to raise the ways and means. Man, said Mr. B., is an excitable animal, and woman still more so, and, above all, a French man and a French woman. The Jesuit knew this; so he addressed himself to the ladies of the Court and city of Paris. The effect was electric. High and low rushed into the project. Enemies in every thing else, united in this. Mary of Medicis, wife of the King, and the Marchioness Verneuil, his mistress, vied with each other in the profusion of their donations. The Duchesses D'Aiguillon and Lesdeguires, and the Countess Guercheville, figured in their train. The gazettes of the day were spangled with the names and titles of female patronesses of missions. Money, clothes, and valuable effects, flowed in upon the Jesuit. Young ladies were even sent to Canada to nurse the sick Christian Indians, and that superb establishment in Quebec, the *Hotel Dieu*, was founded by the Duchess D'Aiguillon for an Indian hospital. To repay so much liberality the Jesuit missionaries sent back the most wonderful accounts of their success. According to their reports, the Six Nations, and divers other Nations, were converted, and the island of Orleans, below Quebec, contained six hundred Indian monks and nuns, regularly divided, male and female, into two distinct societies.* The zeal of the ladies rose to frenzy, and Father Cotton had to moderate it.

Mr. B. said that the French Calvinists, all the while, insisted that the Jesuits were doing no good to the Indians, but acquiring much power and riches for themselves—for which they were, of course, stigmatized by the Jesuits as the enemies of the Indians. On which side the better reason was, might be guessed at from the fact, that, when the English Government succeeded to the sovereignty of the Canadas, they found the Jesuits in

* "Le désir d'imiter la reine des vierges, faisoit embrasser le célibat à un très grand nombre des filles; et la conduite édifiante de ces épouses de Jesus rendoit respectable, parmi les sauvages, un état qui, peu d'années auparavant, y avoit été méprisé."—*Charlevoix, Histoire de la Nouvelle France*, vol. 2, page 55.

FEBRUARY, 1822.

Society of United Brethren.

SENATE.

possession of very few converts, and in the enjoyment of very large revenues; no less than forty-four thousand dollars per annum, which went to the British crown upon the extinction of the order some years ago: and there ended the charities of Parisian ladies in favor of converting American Indians.

But, Mr. B. said, it was not Father Cotton and the ladies only who had tried this business and failed in it. All the Kings of France, from the discovery of Canada in 1600, to the cession of that province and Louisiana in 1763, had made the same experiment, with the same wonderful success in the beginning, and the same miserable result in the end. In the reigns of these Kings, the missionaries covered the valley of the Mississippi, and carried their adventurous zeal to the shores of Lakes Superior and Winnipeg, and to the banks of the Saskatchewan river, every where converting nations, and building chapels, and bringing to their altars innumerable worshippers of the only true and living God. And, yet, what is the present fruit of all this labor? If a traveller on the banks of the Mississippi should inquire for the monuments of that time, and of that work, he might be pointed to the walls of a fallen down house in the village of Kaskaskia, and told "that was the Jesuits' College:" he might be pointed to a stream of water below St. Louis called *La Riviere des Pères*, (river of the fathers,) and to another above called *La Riviere des Moines* (river of the Monks)—and informed that these walls, and these names, are the only vestiges which now remain of all the labors of that powerful order in this magnificent valley.

Mr. B. pointed to Lake Superior, and said it was the same thing there. The site of the chapel which contained 800 worshippers in the time of Charlevoix, was now unknown. Nay, more: the knowledge of the fact that missionaries had ever been there, was itself in danger of being lost. He had the authority of Sir Alexander McKenzie, for asserting that this knowledge, even thirty years ago, was confined to the stream of tradition, and to the memory of some superannuated old men. If such had been the fruit of missions patronized by such men as Henry IV. and the Duke of Sully, Louis XIII. Cardinal Richelieu, Louis XIV. and the great Colbert, led by an order who for energy and devotion have been styled the Janissaries of the Papal throne, Mr. B. said that he, for one, was ready to despair of any great success from our empty pockets and discordant forces.

Mr. B. said, that he had covered no more ground than the terms of the resolutions required, and he had done so designedly. He had seen in a gazette of the city the copy of a constitution, and a list of the grand dignitaries of a vast society announced for the conversion of Indians. The list embraced all Presidents and Ex-Presidents; all Secretaries of War, and State, and Treasury, and Navy; all Judges and Governors, Generals and Commodores, Preachers and Schoolmasters, and all members, present and to come, of both Houses of the Congress of the United States. As a member of the Senate, he found himself included in the list, certainly

without his knowledge, and equally certain without his approbation. He had, therefore, made this exposition of his sentiments to show that he did not countenance the views of the society. He was laid under a necessity of doing so, for the constitution and list is printed in this city; the elections are said to have taken place in this city; all is done, as it would seem abroad, in our very presence; and, if we do not except to the procedure, we agree to it: silence gives consent. And what impositions may not be practised? The ninth article creates a Committee of Ways and Means—five the complement, and three the quorum. This committee is enjoined "to devise and prosecute to effect the measures most practicable and best adapted to supply the Society's treasury with the necessary funds to carry on its operations." This quorum of three are the soul of the Society; they are to raise the wind! How? Nobody knows. Who are they? Nobody knows. What may they not do in the name of this redoubtable society! They may run subscriptions through all parts of Europe and America, and who could have the courage to refuse a mite to such a formidable array of beggars? The weak and credulous would give what was due to their children, their servants, or their poor neighbors, under the delusive idea that the great men whose names they saw were seriously engaged in converting Indians, and would faithfully apply all that was received to that object.

Mr. BROWN, of Ohio, said, in answer to the call thus made on him, by the gentleman from Missouri, that he could only observe that he was unable to give an estimate, tolerably correct, of the value of the property in Ohio, possessed by the United Brethren. He believed that the cultivated portion of their grant was comparatively small, and, to all appearance, the revenue derived from it could not be very considerable; he was uninformed what might have been the amount, as well as its application. The State of Ohio, for several years, exempted the land from taxation. In the course of time, since the first Moravian mission was sent to the Tuscarawas, (now fifty years or more,) it would seem, from their own accounts, that their zeal for propagating the gospel had been so successful as to assemble a large congregation of Indians, whom they had converted to Christianity, which congregation has now become nearly extinct; owing to massacre, wars and dispersion, together with many of the vices that usually attended a degraded community, so that the unfortunate Indians, in that region, under the special protection of the Brethren, have dwindled to a few families; comprehending, in all, perhaps twenty individuals, inhabiting a wretched hamlet, called Goshen, on the Tuscarawas branch of the Muskingum; exhibiting, like the persons of the natives, an appearance of squalid wretchedness. They have among them a resident from the society, and are said to cultivate a common field in a rude and imperfect manner. This remnant shows no symptoms of mental improvement; but, on the contrary, many marks of their degradation appear in their idleness, want, and habits of intox-

ication among the men. As the condition of these Indians, to whom the professed benevolence of the United Brethren has been extended, seems, said Mr. B., in no way improved; the ostensible object of that mission, in which Mr. Heckewelder spent above forty years, has totally failed.

Mr. LOWRIE, of Pennsylvania, observed that, on hearing the resolutions read, he had no objections to their passage. He was always in favor of information on every subject where there was any allegation of mismanagement, or, as in this case, a failure of the use. Of the present case he knew nothing on either side, and he should not have said a word, had it not been for the general remarks of the gentleman from Missouri, which appeared to him to have been perfectly gratuitous, at least, he was not able to see their application to the resolutions now under consideration. He did not like discussions of this kind to be brought before the Senate, unless arising out of the business immediately before us. Should it become necessary to discuss this subject, he, Mr. L., believed it would not be difficult to give a very different view of the subject from that given by the gentleman from Missouri. Without denying the facts adduced, Mr. L. said, he could produce other facts which would place the subject in another light; and he had long found it necessary, in coming to a correct conclusion, to hear both sides. If there have been mistakes on this subject, it is not surprising, and from those very mistakes information would be derived. It was likely that those engaged in this benevolent business had at the first kept too much out of view the necessity of teaching the Indians agriculture and the common arts of civilized life. The proceedings of the different missionary societies show that this error is now corrected. He did not intend to engage further in the discussion. He would not have said a word had it not been that an inference in favor of such general remarks might have been drawn from the circumstance of their being permitted to pass in silence.

The question was then taken on the adoption of the resolutions; and they were agreed to.

MONDAY, February 25.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of Holden W. Prout, administrator of Joshua W. Prout, made a report, accompanied by a bill for the relief of Holden W. Prout, administrator on the estate of Joshua W. Prout, deceased. The report was read, and passed to a second reading.

Mr. BARBOUR, from the Committee on the District of Columbia, in pursuance of instructions of the Senate, of the fifth instant, reported a bill to authorize the paving of Pennsylvania avenue. The bill was read, and passed to the second reading.

Mr. EDWARDS asked and obtained leave to introduce a bill confirming certain claims to land in the State of Illinois. The bill was read, and passed to the second reading.

Mr. JOHNSON of Louisiana, from the Committee

on Indian Affairs, reported a bill to abolish the United States' trading establishment with the Indian tribes, and to provide for opening the trade to individuals. The bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the tenth ultimo, for the appropriation of territory for the purposes of education; and, on motion of Mr. LLOYD, the further consideration thereof was postponed until Wednesday next.

The Senate resumed the consideration of the report of the Committee of Claims, on the petition of Antoine Bienvenue, of the State of Louisiana; and the further consideration thereof was postponed until Wednesday next.

The Senate resumed the consideration of the report of the Committee of Claims, on the petition of Jumonville De Villier, of Louisiana; and the further consideration thereof was postponed until Wednesday next.

The Senate resumed the consideration of the report of the Committee of Claims, on the memorial of Charlotte J. Bullus, widow and administratrix of John Bullus, deceased, late navy agent at New York; and, in concurrence therewith, resolved, that the prayer of the memorialist ought not to be granted.

The Senate resumed the consideration of the motions of the 22d instant, for instructing the Committee on Finance to inquire into the necessity and expediency of making certain legal provisions concerning the commerce and navigation of the territories ceded by Spain to the United States, by the treaty of the 22d February, 1819; and agreed thereto.

The Senate resumed the consideration of the bill supplementary to the several acts for adjusting the claims to land, and establishing land offices, in the districts east of the Island of New Orleans; and the further consideration thereof was postponed until to-morrow.

Mr. BARBOUR presented the memorial of the President and Directors of the Washington Library, praying to be furnished with the documents printed by order of Congress. The memorial was read, and referred to the Committee on the District of Columbia.

The Senate resumed the consideration of the bill for the relief of Ebenezer Stevens and others; and the further consideration thereof was postponed until Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of James H. Clark; and, on motion by Mr. SMITH, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to amend the act, entitled "An act to incorporate the subscribers to the Bank of the United States," together with the motion to recommit the same, with certain instructions; and the further consideration thereof was postponed until Wednesday next.

The Senate proceeded to the consideration of the bill introduced by Mr. WARE, some weeks ago, providing that all the executions which may issue from the circuit court of Georgia shall con-

FEBRUARY, 1822.

Death of Mr. Pinkney.

SENATE.

tinue of force until satisfied, without the renewal thereof on the court roll from year to year.

Mr. WARE explained at some length the circumstances which, in his opinion, rendered the passage of this bill necessary. The bill was opposed by Mr. OTIS, as inexpedient and improper.

After the debate had continued for some time, the question was taken on ordering the bill to be engrossed and read a third time, and was decided in the negative—ayes 13, noes 15.

The Senate then took up the bill from the House of Representatives, to provide for extending the laws of the Union to the State of Missouri, and establishing a district court therein.

Some time was spent in considering the details of this bill, which in the end was ordered to a third reading with some amendment.

The Senate resumed, as in Committee of the Whole, the consideration of the bill vesting in the respective States the right of the United States to all fines assessed for the non-performance of militia duty during the last war; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the further consideration of the bill supplemental to an act, entitled "An act authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile;" and, on motion by Mr. CHANDLER, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the bill supplementary to an act, entitled "An act to authorize the appointment of commissioners to lay out the road therein mentioned;" and the further consideration thereof was postponed to, and made the order of the day for, tomorrow.

Mr. BENTON, from the Committee on Indian Affairs, laid before the Senate sundry documents in relation to the subject, which were read, and ordered to be printed for the use of the Senate.

TUESDAY, February 26.

DEATH OF MR. PINKNEY.

The Journal having been read—

Mr. LLOYD, of Maryland, rose and addressed the Chair as follows:

"Mr. President: It has become my painful duty to announce to the Senate the melancholy fact, that my much esteemed and distinguished colleague is no more. An attempt to excite the sympathies of the Senate for a loss so great, and so afflicting, would betray a suspicion of their sensibility, and would do injustice to the memory of him, whose loss we must all sincerely deplore. This Chamber, sir, has been one of the fields of his fame. You have seen him in his strength. You have seen him the admiration of the Senate; the pride of his native State; the ornament of his country.—*He is now no more.* But, for his friends, and relatives, there is consolation beyond the grave. I humbly and firmly trust, that he now reposes on the bosom of his God."

Mr. KING, of Alabama, then rose, and submitted the following resolve, prefacing it with the obser-

vation, that, although the Senate and the country knew and honored the public character of the deceased, *he* had known him as a man, and knew how to appreciate the loss which they had all sustained:

Resolved, unanimously, That a committee be appointed to take order for superintending the funeral of the Honorable WILLIAM PINKNEY, which will take place to-morrow morning, at eleven o'clock; that the Senate will attend the same; and that notice of the event be given to the House of Representatives.

On balloting for a committee, the following gentlemen were chosen:

Mr. KING of New York, Mr. MACON of North Carolina, Mr. BARBOUR of Virginia, Mr. RODNEY of Delaware, and Mr. WILLIAMS of Mississippi.

On motion of Mr. KING, of Alabama, it was also unanimously:

Resolved, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Honorable WILLIAM PINKNEY, deceased, late a member thereof, will go into mourning for him one month, by the usual mode of wearing a crape round the left arm.

Resolved, unanimously, That, as an additional mark of respect for the memory of the Honorable WILLIAM PINKNEY, the Senate do now adjourn.

And the Senate adjourned accordingly.

WEDNESDAY, February 27.

No quorum being present, on motion the Senate adjourned.

THURSDAY, February 28.

The PRESIDENT communicated a report of the Secretary of the Treasury, exhibiting the official emoluments and expenditures of certain officers of the customs for the years 1820, and 1821; and the report was read.

The PRESIDENT also communicated a report of the Secretary of the Treasury, made in obedience to a resolution of the Senate of the 29th of January last, containing statements and accounts exhibiting the information required by said resolution in relation to bonds for duties on merchandise imported into the United States, which shall have become payable, and remain unpaid, between the 30th of September, 1819, and the 30th September, 1821; and the report was read.

Mr. HOLMES, of Maine, from the Committee on Finance, to whom the subject was referred, reported a bill concerning the commerce and navigation of Florida. The bill was read, and passed to the second reading.

Mr. RUGGLES, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Andrew Mitchell. The bill was read, and passed to the second reading.

Mr. SMITH, from the Committee on the Judiciary, to whom was referred the bill for the establishment of a Territorial government in Florida, reported the same, with amendments, which were read.

Mr. SMITH, from the same committee, to whom

SENATE.

Proceedings.

FEBRUARY, 1822.

was referred the bill to define admiralty and maritime jurisdiction, reported the same, without amendment.

On motion, by Mr. SMITH, the Committee on the Judiciary, to whom was referred the letter from the Secretary for the Department of State to the President of the Senate, respecting the execution of the act providing for the fourth census, were discharged from the further consideration thereof; and the said committee, who were instructed to inquire into the expediency of modifying the law regulating the merchant service, so as to define more particularly the admiralty jurisdiction of the district courts of the United States, were discharged from the further consideration of that subject.

Mr. RUGGLES, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Daniel Carroll, of Duddington, and others. The bill was read, and passed to the second reading.

Mr. HOLMES, of Mississippi, presented the memorial of Samuel Monett, praying indemnification for losses sustained in consequence of non-compliance with a contract entered into by Captain Rogers, in behalf of the United States, for a quantity of plank and scantling. The petition was read, and referred to the Committee of Claims.

On motion, by Mr. LLOYD, the President of the Senate was requested to notify the Executive of the State of Maryland of the death of the honorable WILLIAM PINKNEY, late a Senator of the United States from that State.

Mr. HOLMES, of Mississippi, presented the memorial of the Legislature of the State of Mississippi, praying that section "sixteen" in each township, reserved for the use of schools, may be sold, and the proceeds applied to that object. The memorial was read, and referred to the Committee on Public Lands.

Mr. HOLMES, of Mississippi, presented the petition of William C. Jones, administrator of Benjamin Jones, representing himself to be aggrieved in the construction of the act for the relief of purchasers of public lands, and praying the interposition of Congress. The petition was read, and referred to the Committee on Public Lands.

Mr. SMITH presented the memorial of Nicholas Turnbull, and others, heirs and representatives of Andrew Turnbull, formerly of East Florida, deceased, praying the confirmation of the title of certain lands in said territory. The memorial was read, and referred to the Committee on Public Lands.

Mr. WILLIAMS, of Mississippi, presented the petition of Nathaniel Frye, junior, chief clerk in the Paymaster General's office, praying compensation for his services during the time he acted as Paymaster General. The petition was read, and referred to the Committee of Claims.

The Senate resumed the consideration of the report of the Committee of Claims, on the petition of Antoine Bienvenue, of the State of Louisiana; and, on motion by Mr. BROWN, of Louisiana, it was laid on the table.

The Senate resumed the consideration of the

report of the Committee of Claims, on the petition of Jumonville De Villier, of Louisiana; and, on motion, by Mr. BROWN, of Louisiana, it was laid on the table.

The bill confirming certain claims to land in the State of Illinois, was read the second time, and referred to the Committee on Public Lands.

The bill for the relief of Holden W. Prout, administrator on the estate of Joshua Prout, deceased, was read the second time.

The bill to authorize the paving of Pennsylvania avenue was read the second time.

The bill to abolish the United States trading establishment with the Indian tribes, and to provide for opening the trade to individuals, was read the second time.

On motion, by Mr. DICKERSON, the Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of President and Vice President of the United States, and the election of Representatives in the Congress of the United States, together with the amendment reported thereto by the select committee; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

Mr. DICKERSON, from the Committee on Commerce and Manufactures, to whom the subject was referred, reported a bill allowing a drawback on the exportation of cordage manufactured in the United States from foreign hemp. The bill was read, and passed to the second reading.

Mr. VAN DYKE presented the petition of Moses Smith, of Greenwich, in the State of New York, praying an increase of pension, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

The bill from the House of Representatives to extend the laws of the Union to the State of Missouri, and for the appointment of a district judge therein, was read the third time as amended, passed, and returned to the other House for concurrence in the amendment.

The resolution offered by Mr. HOLMES, of Mississippi, proposing an inquiry into the expediency of making a donation to the State of Mississippi, of land lying on Pearl river, for the purpose of opening and improving the navigation of said river, was taken up.

Mr. H. offered a few remarks to show that the object in view was one which would benefit the interest of the United States, as well as that of the State; adding that it was of great importance to that section of country that Pearl river should be opened, and that he had introduced the resolution in pursuance of instructions from the Legislature of the State of Mississippi.

The resolution was agreed to—ayes 17, noes 12.

The Senate took up the bill directing that the road authorized to be laid out from the Ohio to the Mississippi river, shall be laid out to pass through Columbus, Indianapolis, and Vandalia, (the seats of government of Ohio, Indiana, and Illinois,) and appropriating the additional sum of \$10,000 to defray the expense of the surveys.

MARCH, 1822.

Lands for Education.

SENATE.

Mr. JOHNSON, of Kentucky, observed that the bill was merely to authorize the completion of an important object which had been commenced. The people of the West, far removed from the seat of empire, asked for very few things, and he hoped this little boon would not be refused.

Some amendments of detail were proposed to the bill, on which some discussion took place; after which the bill was ordered to be engrossed for a third reading.

RESTRICTIONS ON COMMERCE.

The Senate, on motion of Mr. LLOYD, took up the resolution offered by him on the 21st instant to instruct the Committee on Foreign Relations to inquire into the expediency of removing the restrictions on our commerce which are imposed by certain acts of Congress.

Mr. L. said that, in calling up the resolution, it was with no intention of discussing it, nor should he even say what would be the course he should adopt on the subject if the question came up for consideration; but his object was simply to move the reference of the resolution to the Committee on Foreign Relations, for the purpose of inquiry into the subject. Some opposition having been indicated by a gentleman (Mr. LOWRIE) to the resolution, Mr. L. wished to know what objection could be made to referring a mere inquiry into the matter to the committee?

Mr. LOWRIE said he had no desire or intention to enter into a discussion of this resolution. He had objected to it simply because he considered the policy referred to by the resolution to have been settled by Congress for several years; the question on this subject had been laid at rest, and he was unwilling to institute any inquiry, or move in it at all. He therefore deemed the resolution inexpedient.

After a few remarks in reply from Mr. LLOYD, the resolution was agreed to, and referred to the Committee on Foreign Relations.

LANDS FOR EDUCATION.

The Senate then, according to the order of the day, took up, in Committee of the Whole, the following resolutions, submitted by Mr. LLOYD, on the 10th of January, and postponed from time to time to this day:

Resolved, That appropriations of territory for the purposes of education should be made to those States in whose favor no such appropriations have been made, corresponding in a just proportion with those heretofore made to other States in the Union.

Resolved, That the foregoing resolution be referred to a select committee, with instructions to report a bill pursuant thereto.

Mr. LLOYD rose and addressed the Senate about an hour and a half in support of the right, the equity, and the expediency of the object proposed in the resolution; when, not having concluded the remarks which he wished to offer on the subject, he asked the indulgence of the Senate to be permitted to conclude them to-morrow; and, thereupon, the resolution was, on motion of Mr. BARBOUR, laid on the table.

FRIDAY, March 1.

The following Message, from the PRESIDENT OF THE UNITED STATES, was received yesterday:

To the Senate of the United States:

Under the appropriation made by the act of Congress of the 11th of April, 1820, for holding treaties with the Creek and Cherokee Nations of Indians, for the extinguishment of the Indian title to lands within the State of Georgia, pursuant to the fourth condition of the first article of the articles of agreement and cession, concluded between the United States and the State of Georgia, on the 24th day of April, 1802, a treaty was held with the Creek Nation, the expense of which, upon the settlement of the accounts of the commissioners who were appointed to conduct the negotiation, was ascertained to amount to the sum of \$24,695, leaving an unexpended balance of the sum appropriated, of \$5,305; a sum too small to negotiate a treaty with the Cherokees, as was contemplated by the act making the appropriation. The Legislature of Georgia, being still desirous that a treaty should be held for further extinguishment of the Indian title to lands within that State, and to obtain an indemnity to the citizens of that State for property of considerable value, which has been taken from them by the Cherokee Indians, I submit the subject to the consideration of Congress, that a further sum, which, in addition to the balance of the former appropriation, will be adequate to the expenses attending a treaty with them, may be appropriated, should Congress deem it expedient.

JAMES MONROE

WASHINGTON, Feb. 25, 1822.

The Message was read, and referred to the Committee on Finance.

The following Message, from the PRESIDENT OF THE UNITED STATES, was also received at the same time.

To the Senate of the United States:

In compliance with a resolution of the Senate, of the 14th instant, requesting the President of the United States "to make known to the Senate the annual disposition which has been made of the sum of \$15,000, appropriated by an act of Congress of the year 1802, to promote civilization among friendly Indian tribes, showing to what tribes that evidence of the national bounty has been extended, the names of the agents who have been intrusted with the application of the money, the several amounts by them received, and the manner in which they have severally applied it to accomplish the objects of the act," I herewith transmit a report from the Secretary of War, furnishing all the information upon this subject in the possession of that Department.

JAMES MONROE.

WASHINGTON, Feb. 23, 1822.

The Message and report, were read.

Mr. THOMAS, from the Committee on Public Lands, to whom was recommitted, with certain instructions, the bill confirming the title of the Marquis de Maison Rouge, reported the same with an amendment, pursuant to said instructions; and the amendment was read.

Mr. EATON, from the Committee on Public Lands, to whom the subject was referred, by a resolution of the Senate of the 2d of January last, reported a bill for ascertaining certain claims to land within the territories of East and West

SENATE.

Prohibition of Foreign Spirits.

MARCH, 1822.

Florida. The bill was read, and passed to the second reading.

Mr. KING, of New York, submitted the following resolution for consideration :

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the Senate and Speaker of the House of Representatives do adjourn their respective Houses on the first Monday in April next.

Mr. ELLIOTT submitted the following motion for consideration :

Resolved, That the Committee of Claims be instructed to inquire into the expediency of providing for the final settlement of the militia claims of the State of Georgia for services rendered under the orders of the President of the United States, during the years 1792, 3, and 4.

Mr. JOHNSON, of Louisiana, submitted the following motion for consideration :

Resolved, That the Committee on Commerce and Manufactures be instructed to inquire into the expediency of providing by law for the erection of a marine hospital at or near to the city of New Orleans, for the accommodation of sick and disabled seamen of the United States, and for the accommodation of sick and disabled boatmen who descend the Mississippi river.

Mr. JOHNSON, of Kentucky, presented the petition of Joseph Redman, praying that his pension may be allowed to take effect anterior to the time at which it commenced, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. LANMAN presented the petition of John Parker, of Connecticut, praying to be reinstated upon the pension list of the United States, or that some other relief may be granted to him, for reasons stated in the petition; which was read, and laid on the table.

Mr. BARTON, from the Committee of Claims, to whom was referred the petition of Byrd C. Willis, and others, of Virginia, reported a bill for the relief of the sureties of Joseph Pettipool. The bill was read, and passed to the second reading.

Mr. LOWRIE laid before the Senate certain resolutions of the Legislature of Pennsylvania, having for their object an alteration of the two judicial districts of the State, and a provision for holding an additional court. The resolutions were read, and referred to the Committee on the Judiciary.

The bill for the relief of Andrew Mitchell was read the second time.

The bill for the relief of Daniel Carroll, of Duddington, and others, was read the second time.

The engrossed bill supplemental to the act authorizing the laying out of the road from the Ohio to the Mississippi river, (the continuation of the Cumberland road,) was read the third time, passed, and sent to the House of Representatives for concurrence.

PROHIBITION OF FOREIGN SPIRITS.

Mr. FINDLAY laid the following resolution on the table for consideration :

Resolved, That the Committee on Commerce and Manufactures be instructed to inquire into the expediency of prohibiting the importation of spirits.

Mr. FINDLAY said, as the resolution contained an important principle, it might be proper to give a brief exposition of his views in submitting it to the consideration of the Senate. He said he was induced to believe that an abundance of domestic spirits, for the consumption of the country could be furnished of as pure and wholesome a quality as those imported, and that the interests of the agriculturists in the Middle and Western States would be promoted by the prohibition.

He presumed it would be admitted, that agriculture was of greater public utility than any other pursuit, and without intending to make invidious distinctions between it and other branches of industry, or to convey any reflections on the constituted authorities that had preceded us, he might be permitted to observe that he believed our statute book contains no evidence of any direct encouragement having been afforded to the agriculturists of those States, (which he would for the sake of distinction call the grain States,) while it was well known that large sums of the public money had been expended for the encouragement and support of commerce, and some protection extended to domestic manufactures, by subjecting articles of foreign manufacture to the payment of duties, by both of which he freely conceded that agriculture had been indirectly aided, but not to the extent it merited. The distillation of spirits, he said, might be considered as a branch of manufactures, and one that was protected by duties on foreign spirits, but the existing duties did not afford a sufficient protection to the grain States, the growers of the raw materials for the manufacturer. He said it was not within the Constitutional powers of the Senate to originate a bill to increase those duties, and if they were augmented they might probably serve to encourage smuggling, without answering the purpose intended; that their total exclusion from a competition with the domestic spirits would afford a more ample protection to the industry of the grain States, and the only effectual one which he believed Congress had in their power to extend to them.

He took it to be a fact susceptible of demonstration, that the value of the products of the grain States, was depressed equal to the cost of the foreign spirits (not including the duties) that were consumed in the United States.

He said it appeared by Seybert's Statistical Annals, that the quantity of spirits imported, calculated on an average for ten years, ending with 1812, was 7,512,415 gallons, and the average of the exportations for the same period was 679,332 gallons, leaving an excess of importation over the exportation of 6,833,193 on the average calculations for ten years; that it appeared from other official documents, that, in the year ending on the 30th of September, 1819, there was 5,832,789 gallons imported, and 3,653,116 gallons in the year ending on the 30th of September last, a small part only of which was exported; that he had not had access to any documents which might have shown

MARCH, 1822.

Prohibition of Foreign Spirits.

SENATE.

the quantity imported in any other year since the publication of the annals referred to. From these documents it appeared that the quantity of spirits imported was diminishing, and might not average as much since that period as it did in the ten years alluded to, but from which it might be inferred that the annual average of the consumption of foreign spirits in our country subsequent to that time, could not be less than four millions of gallons.

A few hundred thousand gallons, however, said he, in the estimate of our annual consumption, are not of much importance in the present view of the question. Neither is the precise value of the quantity, which nearly amounted to as many dollars as there were gallons imported. He said the importing of spirits was not like importing materials, to which we might by industry and skill add a value, and thereby increase the general wealth of the nation; but the value of the amount imported was drained from the productive labor of the country, without any thing being left in return. Part of them, he said, for aught he knew, might be used in the brewing or adulteration of wines, which he would not dignify with the name of a manufacture, and which, instead of being protected, ought to be discouraged. But, if it should be continued to be tolerated and persisted in, domestic spirits might answer for the purpose. If, said he, the consumption of domestic spirits were substituted for that of foreign, the amount of their value would at least be saved to the nation, and the farmers in the grain States would find a profitable market for their rye and corn, and for many of their fruits, which were perishing on their hands.

Mr. F. said he was aware that many objections might be made to the contemplated prohibition; and which, if he could fully anticipate, he did not conceive that this would be the proper time to endeavor to obviate them. He would, however, remark, that it had been alleged by respectable citizens in some of the States, as appeared by various publications, that the more one nation purchases from another, the more she would sell of her own products. He said there was a fallacy in the position, in the extent, at least, to which it had been assumed by some. He admitted, that in commerce between nations who supplied one another, not with the necessities, but with the luxuries of life, the position might probably be sustained, but such was not our situation. Our exports, said he, not including those shipped on debenture, principally consist of raw materials for manufacture, breadstuffs, and other articles ranked among those of the first necessity, the demand for the greater part of which was limited by the natural wants of man; and he could not, therefore, discover how, nor by any process of reasoning arrive at the conclusion, that by our purchasing foreign spirits, or any article imported, it would tend to increase the demand for, and consumption of, the staples of the grain States. He was ready to admit that, by navigation acts or treaties, the products of one country might be excluded from, or admitted into certain ports on more or less advantageous terms than similar products of another country; but this could neither

add to nor diminish the general demand for articles of the first necessity, as this was limited by the laws of nature, which artificial regulations could not control. If, he observed, there were no navigation acts, nor commercial treaties, and the individuals of each nation permitted without restraint to exchange with the individuals of any other nation the surplus products of their industry, then every individual would, of course, direct his industry to such objects—the surplus of which he could exchange to the greatest advantage, and thus, by the citizens or subjects of every country pursuing their respective interests, those of the whole might be promoted.

But, said he, other nations having introduced navigation acts, and adopted other regulations of trade, so that the commerce of the world was restricted in various ways, it is incumbent on us, and more especially at this time, when the products of the farmers, in the grain States, do not find a market abroad sufficient to reward their labor, to adopt countervailing measures so as to afford them a market at home, and thereby protect this valuable branch of our industry, and which, from the bounties of Divine Providence to our country, might be done with the happiest effect.

From the diversity of our climate and soil we had it in our power, by duly encouraging the development of our internal resources, to furnish among ourselves, without supplies from abroad, all the necessities, and many of the superfluities of life. If this should not be conceded to the extent which he had stated, there could not, at all events, “be a loop on which to hang a doubt,” but that the distillers of the grain States could furnish a supply of spirits, not only sufficient for the consumption of the country, but large quantities for exportation, if it should be required. Then why, he asked, should we, under such circumstances, permit foreigners to supply us with spirits which diminishes the demand, and, consequently, reduces the price of agricultural products? They do not act in this way towards us. Foreign nations guard, with peculiar care and strict regulations, every branch of their internal industry, and do not suffer others to compete with them on terms by which their own interests can be affected. But we permit them to supply us with the proceeds of their industry to the exclusion of encouraging our own. While this system is continued, it must tend to impoverish the Middle and Western States, instead of promoting the general welfare, the great and ultimate object of the Constitution.

He said if the proposed prohibition, which was a measure he considered the grain States entitled to, should be deemed by gentlemen from other quarters of the Union, a concession, he for one would be ready, as he then was, to extend complete protection to the industry of the Eastern and Southern States; and by thus protecting the industry and consulting the interests of the different portions of the Union, all sectional jealousy would be destroyed, the interest of the whole promoted, and the various parts linked together by ties of

interest and reciprocal dependence that could never be rent asunder.

It might be said, he observed, that, if the measure was adopted, the countries from which we imported spirits might be induced to employ their industry in the production of breadstuffs, and thereby affect the interests of the grain States, which it is the object of the resolution to protect. He did not apprehend that this could be effected to any great extent. It was well known that the countries from which spirits were imported already produced as much grain as their capacities for its production would admit, and but a small portion of which is distilled, as it appears from our public documents. The greater part, probably nine-tenths, of the imported spirits, are produced from other materials than grain.

Mr. F. said he was not insensible to the fact that the adoption of the measure might reduce the revenue so that it might be inadequate to meet the engagements of the Government, but, in this event, we must either face the alternative of retrenching the public expenditures to the amount of the probable deficit, or the House of Representatives, to whom it properly belongs, devise ways and means to supply it. The latter alternative, he observed, would be much more advantageous to the grain-growing States than the present order of things; for, as they would be furnished with a market for their rye and corn, which were at present lying useless in their granaries, (especially those who are distant from the seaports,) they might be enabled to pay taxes which they could not do under existing circumstances.

He said it might be alleged that the predilection for foreign spirits was so great and strongly confirmed in our country, that, if they were excluded, the consumption of domestic spirits could not be substituted in their place, and, of course, the object of the resolution would not be attained. For his part, he said, instead of considering this as an objection to the measure, he did not anticipate from it such a favorable result. It was one which no good citizen would regret, as it would tend to improve the public morals, and produce some of the good, without any of the evil effects of a sumptuary law.

Mr. F. concluded by observing that the subject was susceptible of more amplified and clear illustrations, but he would not, at this incipient stage of the business, say more respecting it.

LANDS FOR EDUCATION.

The Senate then resumed, in Committee of the Whole, the consideration of the resolution relative to an appropriation of public land to the old States, for education.

Mr. LLOYD resumed the speech which he commenced yesterday in support of the resolution, and occupied the floor about an hour.

Mr. EDWARDS, of Illinois, next rose, and spoke nearly two hours against the resolution; when, after remarking that he must conclude at some other time, if at all, what he had further to say on the subject, he sat down.

Mr. E.'s remarks were as follows:

Mr. President, notwithstanding that any opposition to the resolution upon your table, on the part of the Representatives of the new States, has been denounced as "disreputable to their characters for honesty and justice," not only by many of our most distinguished and patriotic public journals, but also by one of the most respectable States of the Union; yet, sir, a sense of duty will not permit me to decline an investigation of the subject, hopeless as it may be to oppose my feeble efforts to the transcendent abilities with which the proposition under consideration has been supported, and, unpleasant as it is, to subject myself to imputations, which the zeal of many of its ablest advocates affords me but little prospect of escaping. I shall, however, carefully endeavor to follow the example of the honorable gentleman who has just resumed his seat, (Mr. LLOYD,) in treating the subject with such deference to the feelings of others, as to furnish no ground of exception to any gentleman, with whom it may be my misfortune to differ in opinion; and permit me to say, sir, that equally with the gentleman from Maryland, appreciating the advantages of education, regarding it as a most efficient means of increasing the virtue, knowledge, and happiness of mankind, and of imparting additional moral power, stability, and embellishment to our republican institutions, it would afford me the sincerest gratification, to unite with him in any just and proper measure for the advancement of that important object. But, sir, it appears to me to be doubtful, at least, whether Congress can rightfully adopt, for that purpose, the measure now under consideration.

The appropriation which we are asked to make is avowed to be for a mere State purpose, and in that point of view, I shall proceed to consider it under every modification of which it is susceptible. The question then, is, can the resources of this nation be thus applied? This should be tested by principle rather than by the "precedents upon precedents" referred to and relied upon by the gentleman from Maryland; for this Government is much too young to acknowledge the force of any precedents not founded upon, and much less of those which are in opposition to principle, and gentlemen who are disposed to avail themselves of an argument deduced from mere precedents, in the present case, ought to recollect how little inclined they would be to respect such authority, in a variety of other cases that might be referred to.

In discussing this subject, said Mr. E., I may I presume safely premise that the duties, powers, and objects, of the Federal and State Governments are separate and distinct; that the success of our whole governmental experiment, and the prosperity and happiness of this nation, depend upon the fidelity and wisdom with which those governments respectively discharge their appropriate functions. Each government has, for those important purposes, and as necessary thereto, its own particular resources, which cannot be yielded up, or misapplied, without impairing its capacity to fulfil the objects of its institution; for nothing

MARCH, 1822.

Lands for Education.

SENATE.

could be more nugatory than a grant of powers without the means of executing them. The resources of this Government are found from experience to be, at this time, inadequate to its wants; any measure, therefore, whose tendency would be further to embarrass and cripple its operations, must be deemed highly inexpedient at least.

Mr. President, said Mr. E., the gentleman from Maryland appears to have reviewed, with critical accuracy, all the events connected with the acquisition of the national domain; and he has, with great perspicuity, traced out the origin, and demonstrated the validity, of our title to it. But, sir, whether it has been acquired by conquest, cessions from particular States, or purchases from foreign Powers, one thing is undeniable—it has doubtless been acquired by, and exclusively belongs to the Confederation, or Union. It must, therefore, be considered as national, and not State property, and, by fair inference, is applicable only to national and not State objects. It is true, as contended by the honorable gentleman, that it is a common fund, in which all the States are interested. So, sir, is the revenue, and every other species of property belonging to the United States, in relation to all of which the interest of the States is precisely the same. Being a common fund, applicable to the use and support of the General Government, the States can enjoy the benefits of it only in its just and legitimate application to national purposes. I hold it, therefore, that no State can rightfully claim, and of course to none can be granted, the separate and distinct use, and enjoyment of, the property, or funds of the nation, in consequence of a right to a common participation therein.

Independent, however, of these general considerations, the adoption of the proposed measure is, I think, forbidden by a just regard to the positive stipulations of the United States which ceded the public domain on the east side of the Mississippi river. Let us, said Mr. E., for a moment attend to the circumstances under which those cessions were made, which have been so eloquently narrated and commented upon by the gentleman from Maryland.

During our Revolutionary struggle, which eventuated, so happily, in the establishment of our liberty and independence, the pecuniary resources of the nation had been exhausted; and, at the close of the contest, it found it itself loaded with a heavy debt, incurred in the prosecution of the war, which it had not the means of discharging; but which every dictate of justice, honor, and gratitude, required should be provided for, at the earliest practicable period, by every means which the nation could command.

Several of the States claimed large tracts of waste and unappropriated territory in the Western country, as being within their chartered limits. These claims had long been the subject of much animated, and sometimes irritating discussion, as is sufficiently obvious from the authorities read by the gentleman from Maryland. The States which had no part in those lands, had earnestly insisted that, if the dominion over them should be estab-

lished by the common force and treasure of the United States, they ought to be appropriated as a common fund for defraying the expenses of the war. Congress, appealing to the generosity, magnanimity, and patriotism, of the States having those claims, had recommended and solicited liberal cessions of a portion of them, for the same purpose—promising, as inducements thereto, by the very resolution which the honorable gentleman has read to you, that all the lands which might be so ceded or relinquished should be disposed of for the common benefit of the United States; that they should be settled and formed into distinct republican States, which should be admitted into the Federal Union; and that the regulations for granting and for settling those lands should be prescribed by Congress.

The States thus appealed to, yielding at length to a laudable spirit of harmony and conciliation, made the cessions which had been requested of them—not, however, without stipulating very explicitly that those lands should be considered as a common fund for the use and benefit of the Union, as it then was, or thereafter might be; and that they should be faithfully and bona fide disposed of for that common purpose, “and for no other use or purpose whatsoever.”

The United States, therefore, having solicited and accepted of the cessions upon such terms—under such circumstances—having bound themselves, by solemn compact, to dispose of those lands for the use and benefit of the Union—“and for no other use or purpose whatsoever,” Congress cannot now, I think, consistently with good faith and honor, disregard those solemn engagements, by withdrawing the whole, or any part, of the fund so surrendered, from the use of the Union, and appropriating it to that of any one or more States.

Sir, said Mr. E., the stipulations of the United States embrace the whole of those lands. If, then you can withdraw any part of them, from the use for which they were specially solicited, ceded, and accepted, where, I beg leave to ask the gentleman from Maryland, is the limit to your power over them? Why may you not as well make partition of the whole of them among the several States of the Union? And how then would you fulfil the stipulations of the United States? First, that the regulations for granting and settling those lands should be prescribed by Congress. Secondly, that they should be settled; and, thirdly, that being settled, they should be formed into distinct republican States, and admitted into the Federal Union. It cannot be contended that we are competent to delegate powers for such purposes to the States, for, if that be the case, there are no powers with which we are invested, that might not, with equal propriety, be transferred.

Mr. President, said Mr. E., it is no answer to these objections to contend, as the gentleman from Maryland seems to do, that the claims of the ceded States were not just and valid; for, however defective they may have been originally, the United States, by accepting of the cessions upon special conditions, must be considered as having admitted the right, and bound themselves to comply with

the conditions: otherwise, there could be no faith and confidence reposed in any adjustment, arrangement, or contract, with Government. [Here Mr. LLOYD rose and explained the remarks he had made; and having resumed his seat, Mr. E. again proceeded.]

Mr. President, said Mr. E., in consequence of the explanations of the honorable gentleman, I shall forbear the remarks I had intended to make upon this part of the subject. But, sir, said he, let it even be admitted that the claims of those States were wholly defective; that they had never made any cessions whatever; that the United States had never entered into any stipulations in relation to the subject; and that the public domain had actually been conquered by the united valor of all the States; still it would have been an acquisition made, not in their State, but in their Federal character; in which latter character only could they participate in the use and benefits of it. For, being a federal acquisition, it could not, without a total prostration of our whole system of Government, be annihilated as such, by being partitioned out, in due proportion, among the several States of the Union. Where, sir, is delegated the power that is competent to make such a division, either of the whole or a part? The State governments, most assuredly, have no control over the subject; and, surely, those to whom the powers of the Federal Government are intrusted, never could, rightfully, annihilate its own resources for any such purpose.

If, however, sir, the gentleman from Maryland is correct in the opinions, which he has supported with equal zeal and ability, then indeed, sir, may the States rightfully claim, and Congress rightfully grant, partition of all the territory purchased of France and Spain, with the common funds of the nation, to be appropriated to objects to which the powers of federal legislation are not pretended to extend. Then, indeed, sir, may the revenue, and every other species of property belonging to the United States, receive a similar destination: for they all constitute "the common funds of the nation," in which the States are interested; and the powers and objects of appropriation, as granted to Congress, by the Constitution of the United States are equally precise, defined, and limited, in relation to all the funds of the nation, without discrimination.

In the specification of those powers, said Mr. E. there is none, either expressed or implied, to warrant the appropriation now asked for. It cannot be inferred from the general power, to make all needful rules and regulations for disposing of the territory and other property of the United States, for candor must admit, that the plain and natural inference from this grant of powers, that the property of the Union should be disposed of for the use and benefit of the Union—and that, too, in strict conformity with the legitimate powers of federal legislation; and solely in aid of the great objects thereof. If, then, the States respectively have no right to the separate and distinct use and enjoyment of the common property and funds of the nation, whence do we derive the power to con-

fer such a right upon them? And if the control over those funds be intrusted to the Federal Legislature, for national, and not for State purposes, I beg leave, also, seriously to ask gentlemen, whether we can appropriate them to the latter, without a most palpable violation of the trust confided to us?

In addition to all these objections, said Mr. E., there is one more which cannot be disregarded, so long as we retain the slightest respect for the just and lawful acts of our predecessors; or consider the high character of justice, honor, and good faith, which this Government has hitherto so justly acquired and maintained, both at home and abroad, as worth preserving.

The first Congress, composed principally of the venerable sages and patriots of the Revolution, duly considering the purposes for which the public lands had been ceded, and disposed fairly to fulfil the stipulations of the United States in relation to them, by the act of 1790, solemnly pledged, not only those, but all other lands, which the United States might thereafter acquire, for the payment of the public debts—expressly declaring that they should be applied solely to that use until those debts should be fully satisfied.

By the act of 1795, this pledge is again repeated in language still more energetic, for the faith of the United States is therein also expressly pledged, that those lands shall remain inviolably appropriated to the payment of those debts until the same shall be completely effected.

At various other periods, between 1790 and 1817, inclusive, has this subject been brought under the review of different Congresses, and as often has the same pledge been renewed. And thus has been created a solemn compact between the United States and the public creditors. Seeing it, then, supported by so many repeated enactments, and sanctioned, as it has been to this day, by the public sentiment of the nation, shall we now violate it? Have our predecessors acted unjustly or unwisely in making it? If not, we ourselves, though bound by no previous obligations, ought, for the sake of justice, to be willing to do the same thing, if it were now to be acted upon for the first time; for this Government ought to be just, before it pretends to be generous, especially at the expense of others.

Mr. E. here read several sections of the laws containing the pledges referred to, and contended that the faith of the United States being pledged, that the whole of the public lands should remain inviolably appropriated to the payment of the public debts; that they should be appropriated solely to that use until those debts should be fully satisfied; and that, a vast amount of them still remaining unpaid, no part of the national domain could be rightfully appropriated to the purposes contemplated by the resolution under consideration. And if, indeed, sir, said he, we have on any former occasions, through inadvertence, or from other causes, misapplied any part of this fund, so far from furnishing an argument in favor of persevering in a course so unjustifiable, I appeal to the candor of the gentleman from Maryland, as he has done to mine, to say whether it does not in-

MARCH, 1822.

Lands for Education.

SENATE.

contestably give to the public creditors an additional claim upon us to forbear all further wilful misapplications?

But, sir, let us inquire into the extent of the appropriation we are called upon to make. Instead of the "small slice," as described by the gentleman from Maryland, it is to the enormous amount of about ten millions of acres of the national domain, which, at the average price at which those lands have hitherto been sold, would produce a sum nearly equal, if not entirely so, to the whole amount of the net proceeds of the sale of public lands, received into the Treasury of the United States, during the last nineteen or twenty years. It would be needless to review the extraordinary circumstances which, in this period, so powerfully contributed to augment the receipts of the Treasury from this source of our revenue. Similar causes are not likely to recur for many years to come; and, calculating upon the sales that have been made since those causes have ceased to operate, a much longer period, probably not less than double that length of time, would be requisite to effect sales to the same amount.

What then, Mr. President, is to be the consequence of granting this quantity of land to the States, in whose favor it is applied for? It surely cannot be seriously intended to vest the old States with the power to plant colonies of tenants in the new ones. This would be impracticable, and, to those States, utterly useless. Waiving other important considerations, which I forbear even to allude to, the vast extent of the national domain, and the cheapness of unimproved lands, thank God for it, afford but little prospect of renting such lands to advantage, or of even having them settled and improved for the use of them.

The object, then, must be either to authorize the States to dispose of the land, or that this Government shall become their auctioneer for that purpose. The former would be transferring to those States a power exclusively delegated to Congress—a right to do that which, according to the stipulations before referred to, can only be performed by Congress. For, I take it for granted that, if you cannot vest in the States the right to dispose of their respective interests in the whole of the public lands, you can transfer to them no power to dispose of any part of them. But, sir, supposing there is nothing solid in this objection, what is to be the effect upon your Treasury, of authorizing the States to sell the land proposed to be granted to them? They must enter into competition with you. In proportion to the extent of their sales, whatever they may be, yours must be diminished; because not only the price, the sale of land, must depend upon the relation which supply bears to demand; for if the price be so low, and the supply so great, that it ceases to be an object of speculation, there can be no motive to purchase it but for cultivation. As the Government, however, would still have an infinitely greater variety of lands to select from, the States could not sell at all to any extent without underselling the Government. This, therefore, they must do, otherwise their lands would be of no use to them.

Recollect, sir, the millions of acres which you have granted in military bounties. These have already come into competition with you at the reduced price of twenty to forty dollars a quarter section, and have most materially curtailed your sales. Add to them the ten millions of acres now proposed to be granted, you must abolish your present system of sales, and abandon your minimum price altogether, or close up your land offices for twenty, thirty, or forty years to come.

Take, then, sir, if you please, the other alternative; that the Government shall dispose of the land for the benefit of those States. To this some gentlemen seem to think there can be no objection, because the Constitution has delegated to Congress the power of disposing of the property of the United States, though that power is, by express stipulation, and plain and obvious inference, coupled with the positive duty of disposing of such property for the benefit of the Union. By this plan, however, the injurious effects of competition might be avoided, and the present minimum price preserved. But, as has been already shown, it would require some twenty years at least to dispose of the land, though not an acre should, in the mean time, be sold for the benefit of the Union. This would indeed be transforming Federal into State agents; abstracting them from duties for whose performance they were solely created, and devoting them to a pretty long servitude to mere State purposes. Now, sir, admitting we have a right to give away the land to the States, whence do we derive the power to constitute ourselves, and our successors, too, their agents and trustees? Or to convert this Government into such State machinery?

But, sir, putting the best possible aspect upon this plan, it can amount to nothing less than a virtual grant of money, to be paid out of the public Treasury, with a pledge of our already pledged, repledged, triple, quadruple, quintuple pledged public lands, for its payment. Is, then, that a proper time for making such an appropriation, when the receipts of the Treasury are not more than adequate to the current expenses of the Government? When the Government has to support itself by loans of five millions at a time? And when every man in the nation, of ordinary sagacity, must be convinced that we must soon resort to a permanent system of internal taxation? Sir, said Mr. E., it cannot be disguised from the people of this nation, that, in proportion as we misapply or impair any of the ordinary sources of revenue, additional burdens must be imposed upon them. And can it be supposed that they will be reconciled to an appropriation, to such an amount, attended with such consequences, without even the pretence of power on the part of Congress to enforce its application to the objects for which it is to be granted?

But, sir, what is to be the extent to which the new doctrines upon which the present proposition is supported, are to lead us? One false step begets another. If, because one thirty-sixth part of the national domain, in the new States, has been appropriated to the support of education therein,

the States in which there is no public land are entitled to an appropriation of equal amount, as contended by the gentleman from Maryland, why may they not, with equal propriety and justice, claim a much larger proportion of the net proceeds of the sale of public land for a different purpose; and one, too, which has not escaped the attention of the honorable gentleman, but has been several times referred to by him in the course of his remarks? By stipulations with the new States, one twentieth of those proceeds is appropriated to the making of roads in and leading to them. Are not roads, as well as education, equally necessary to every State in the Union? And if you grant the proposed appropriation for the support of education, upon the principles contended for by the gentleman from Maryland—not asked, as a favor, but, according to his own language, “demanded as a right”—upon what ground can you refuse the suggested appropriation for public roads? If the latter be granted, then will not only this source of national revenue be completely annihilated, but other sources must be rendered tributary to the States. For if a sum equal to one-twentieth of the proceeds of the sale of public land, is to be granted to each State, then, as certainly as that twenty-twentieths are the whole, those proceeds can only satisfy twenty States, and the balance must be paid out of some other branch of the revenue.

In short, sir, it appears to me that we have no more right to grant away to the States the funds, than the powers, of this Government; for, take from it its pecuniary resources, and destroy its character for good faith, it would be idle mockery to pretend to talk about its powers.

Mr. President, said Mr. E., in the remarks which I have had the honor to submit to your consideration, I have attempted to show that, upon principle, the proposition under consideration ought not to be acceded to. But, says the gentleman from Maryland, similar donations have been made to the new States. Admit it sir; what then? If the cases be analogous, and my argument be well founded, that, also, is wrong. And can we derive from one error a just and lawful right to commit another of still greater magnitude? If our predecessors have violated the fundamental principles of the Government, disregarded its most sacred obligations, prostrated its faith, and assumed powers never delegated to them—does this confer upon us the right of further usurpations? If that be the case, then truly have we discovered a most convenient means of acquiring power; after which, man at all times lusteth a little too strongly. Such a principle, however, never can be recognised by this enlightened Senate. The precedent referred to, therefore, if in point, I contend is destitute of all authority, because, as such, it would be most palpably erroneous. But it will not, I think, upon a fair and candid examination, be found to warrant the argument that is attempted to be drawn from it.

I shall endeavor to show that the parallel between those cases does not run quite as far as seems to have been imagined by the gentleman

from Maryland; but that there are striking diversities in them, affording such ground for an honest difference of opinion, at least, as requires the exercise of a very moderate portion of common charity to believe that gentlemen may support the one, and oppose the other, without intentional injustice or inconsistency.

The one, sir, is a case decided upwards of thirty-six years ago, by the gentleman's own showing; confirmed by repeated subsequent decisions; and universally acquiesced in. The other is a case purely *res integra*; never before acted upon, or even agitated. In supporting the former, we are, therefore, fortified with the concurring sentiment of the nation, and the positive approbation of all our predecessors, since the year 1785. In forbearing to adopt the latter, we are equally supported by their example—an opinion, too, sir, as far as it can be inferred from their conduct. And it would not, I think, be a very modest pretension, on our own part, to claim for ourselves more wisdom to discern, or virtue to execute our duties, than was possessed by so many of the wisest heads and best hearts that ever adorned any nation. Appreciating the advantages of education, as they must have done, and not less devoted to the interests of their respective States than ourselves, had they considered those cases as presenting equal claims upon them, they never would have provided for the one, so promptly, and have postponed, and totally neglected the other so long. The gentleman from Maryland, therefore, in his eloquent appeals to the magnanimity of the members of the new States, ought not to forget that, whatever of disapprobation is fairly due to their opposition to the measure which he presses with so much ardor and ability, equally applies to those distinguished sages and patriots, who have retired from the stage of public action, with so much honor and glory; or whose souls have fled to another and better world, to receive the rewards of the virtues they practised in this.

Sir, said Mr. E., the great and leading distinction between those cases is, that the one had for its object the common benefit and advantage of all the States in their Federal character. The other is intended for the particular use and benefit of certain States in their State character. The former was conformably to the powers and objects of Federal legislation, and consistent with the stipulations of the United States, with the States which ceded their lands, and can only be justified upon such grounds. The latter is warranted by no delegation of authority whatever, either expressed or implied, and would be in direct contravention of those stipulations, and, therefore, cannot be supported at all. The one involved no breach of engagements with the public creditors, since the pledge of the proceeds of the sale of public lands imposed no obligation to change a mode of disposing of them, which had then been five years in operation. The other would be a most flagrant violation of the faith of the United States, solemnly pledged to those creditors.

The gentleman from Maryland contends that there has been no contemporaneous construction to

MARCH, 1822.

Lands for Education.

SENATE.

warrant a distinction between those cases. But, sir, never, perhaps was there a case in which the evidences of such a construction were stronger, or its authority entitled to more respect than is evinced, by all the circumstances attending the cessions of our public lands, the mode of disposing of them which was shortly afterwards adopted, and the constant adherence to the same system from that time to the present period.

In the adoption of this system, under which the reservations for the support of education were made, the most enlightened patriots of the nation who had taken an active part in relation to those lands, the States which insisted that the cessions ought to be made, the States that made them, and Congress which accepted them, all concurred. This general concurrence, therefore, was the best possible practical exposition of the intentions of all parties in relation to the manner in which this fund might be fairly and justly disposed of for the common use and benefit of the Union.

Sir, said Mr. E., it cannot be supposed that the States which had so strenuously insisted that those lands should be appropriated, as a common fund, for defraying the expenses of the war; the States which stipulated, with such jealous caution, that they should be faithfully disposed of for the common use and benefit of the Union, and for no other use or purpose whatsoever; and Congress which accepted of them, upon that express condition, should so soon afterwards have intended to make a partial disposition of any portion of them.

Virginia, sir, had made much the most important and valuable cession, not, however, without some apparent hesitation at least. If, then, the system of disposing of those lands had been understood to contain any unjust and partial appropriation of them in favor of any State, or States, to the exclusion of Virginia, it is particularly extraordinary not only that her wise and sagacious representation, by which she has always been eminently distinguished, should have acquiesced in it, but that, two years afterwards, two of her most distinguished Representatives, and Mr. Madison himself one of those two, should have united in a report to Congress strongly recommending the same system, with the additional reservation of the twenty-ninth section of each township, to be given in perpetuity for religious purposes. It is evident, therefore, that the system was adopted for the common benefit and advantage of all the States, and that it furnishes neither precedent nor apology for an appropriation of the national funds to the particular use and benefit of any State.

Sir, said Mr. E., it must be manifest, from this view of the subject, that the distinction I have endeavored to draw between those cases is supported by the practical exposition which has been given to all the cessions of public land, and the stipulations connected therewith, by those of all others the best qualified to interpret them—by the parties themselves. While, on the other hand, the forbearance of all of them to insist upon, or any of them to adopt such a measure as the one now proposed, with the most powerful inducements thereto, had it been proper, affords the strongest ground to

believe that they considered any such disposition of the national funds as wholly inadmissible.

Independent; however, of the very high authority of a decision thus given, by those who were so eminently qualified to judge correctly upon the subject, it is easy to demonstrate, not only that the reservations for the support of education were justifiable upon strict national principles, but that even much greater encouragement to the settlement of the national domain, had circumstances required it, might have been afforded by the Government, with perfect fairness and impartial justice.

In vain, sir, would Maryland, and the rest of the States, which originally set up no claim to those lands, have insisted that they should be appropriated as a common fund for defraying the expenses of the war, or the States that ceded them have stipulated that they should be disposed of for the common use and benefit of the Union, and fruitless would have been the pledge of them to the public creditors, if they had been permitted to remain in the condition in which they were received—waste and unappropriated, the haunts of ferocious beasts, and the habitations of blood-thirsty savages.

In this situation neither the Union itself nor any State whatever could derive any possible benefit from them; hence it became not less the interest than the duty of the Government to encourage emigration to them. And, if, for this purpose, it had been necessary to have actually given away a moiety of them to settlers thereon, according to the policy pursued by some of the States, in similar cases, such a measure would have been equally demanded by the engagements of the Government, and the real interest of every State.

But, sir, without insisting upon what might have been done, it is sufficient for my purpose to show, that the reservations which have heretofore been made for the support of education, were proper, expedient, and just, in relation to all the States. This I shall endeavor to do.

The conditions which the United States bound themselves to perform, in relation to the ceded territory, seem to have had two principal objects in view.

First. That those lands should be rendered available, as a common fund, for paying the debts, defraying the expenses, and advancing the interest, of the United States. And, secondly, That they should, at the same time, be so disposed of for those purposes, as to promote the formation of new States, within their limits, to be admitted into the Federal Union. Both these objects equally depending upon the same stipulations, neither could, properly, be provided for, to the exclusion of the other. For, as the new States could not, consistently with the conditions agreed upon, be formed and admitted into the Union, without previously disposing of a suitable proportion of the territory, so neither could the territory be disposed of to a foreign Power, or in any other manner, so as to prevent the formation of the new States. Nor could any other measure have been correctly adopted, in relation to one of those objects, with-

out a correspondent regard to the other. The first contemplated a transfer of the land. The second was intended to provide the means of enjoying it, with the utmost safety, comfort, and happiness. Thus understood, they were calculated, mutually, to aid each other. The promise to establish distinct republican States, and to admit them into the Union, upon an equal footing with the original States, in all respects whatever, as soon as might be practicable, could not fail to promote the sale and settlement of the land, whilst every other inducement that could be afforded to the latter, would equally contribute to hasten the accomplishment of the former.

It would, therefore, have been a violation of good faith, if, in disposing of the lands, due regard had not been paid to the formation of the new States; and a most culpable neglect of duty, if all necessary and practicable means of rendering them suitable and useful members of the Union had not been adopted. This, evidently, was the opinion of the old Congress; and hence we find one ordinance for disposing of the territory, and another for the government of its inhabitants. The former, among other things, provides for the support of education, doubtless, with a view to promote both of the objects referred to. The latter contains an explicit avowal of the moral benefits expected from those reservations; for, in one of the six articles which are declared to be articles of compact between the original States, and the people of the ceded territory, unalterable, unless by common consent, it is expressly said "that religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools, and the means of education, shall forever be encouraged."

As, then, it was not less the duty of Congress to provide for the establishment of the new States, than to dispose of the lands, it may be considered a fortunate circumstance, that those two objects were so well calculated to harmonize with each other. Since, had it been otherwise, the obligations to provide for both would not have been the less imperative. Nor would any of the original States have had just cause of complaint, if the formation of the new ones had even required sacrifices on the part of the Union. For that being one of the conditions of those grants or cessions, must be considered as a part of the consideration thereof, and none could, fairly or honestly, claim the benefit of the one, without contributing in just proportion to the other.

In order, therefore, to do justice to the wisdom, foresight, and profound policy, which dictated the reservation of a part of the national domain, for the support of education, it is necessary that that measure should be considered in relation to both of the objects referred to.

I will not, Mr. President, said Mr. E., consume your time by attempting to demonstrate the general political considerations which must have recommended its adoption. The influence of education upon the happiness, moral power, good government, and prosperity of any community, is too obvious to require illustration. Nor, indeed, sir,

could any one, much less myself, add any thing upon the subject more eloquent or convincing than what we have already heard from the honorable gentleman from Maryland.

Considering the measure, merely, in relation to the sale of the lands, it derives equal justification from the intentions with which it must have been adopted, and the success that has attended it; for it can neither be doubted, that it was intended to render those lands more valuable and available to the Union—nor that it has been eminently successful in producing those effects.

But, sir, in whatever point of it can be fairly considered, it seems to me to be difficult, at least, to discern any principle upon which it can be justified, that can support, or which indeed does not exclude the claim now contended for on the part of the original States.

That the encouragement of education, as a means of diffusing useful knowledge, of suppressing vice and immorality, and of promoting religion, would, as contended by the gentleman from Maryland, be eminently calculated to insure the safety, happiness, and prosperity, of our common country, is most readily admitted. But it does not therefore follow, that we have a right to adopt the proposed measure, for such purpose. For, if that be the case, the powers of Congress must be admitted to extend to all those objects, and would equally authorize any other means calculated to promote the same ends.

It is quite a familiar axiom in politics, as well as in law, that a grant of power includes an implied authority to adopt the necessary means of executing it. But it would really be somewhat novel, I think, to contend that Congress have a right to adopt the means of promoting, advancing, or providing for objects, over which all power has been withheld from the Federal Government, and retained, exclusively, to the States. And I trust, sir, that the Republicans of the school of 1798, now dominant, are not themselves about to revive the exploded doctrine of a general, undefined power in Congress to provide for the general welfare. No, sir, recent demonstrations of increasing vigilance over State rights, and strong indications of a jealousy of Federal encroachments [alluding to an argument made by a gentleman of the Senate, a day or two before] forbid any such supposition. Therefore, discard from my view of the subject all arguments deduced from any such supposed grant of power.

The power to provide for such objects in the new States, said Mr. E., results from the engagements of the United States, under the old Confederation; and from that clause of our present Constitution, which declares that all engagements, entered into by them, before its adoption, shall be valid against them. These engagements were, first, with the States which ceded their lands, as has been already explained—and, secondly, with the inhabitants of the ceded territory, to whom a promise, declared to be irrevocable, unless by common consent, had been made in the ordinance of their government, "that schools, and the means of education, should forever be encouraged."

MARCH, 1822.

Lands for Education.

SENATE.

Congress having a right to legislate for those inhabitants, and being bound to provide for their admission into the Union, unquestionably must have had the power to adopt the necessary means of training them up in correct principles; and, in the language of the ordinance, religion, morality, and knowledge, being necessary to good government, and the happiness of mankind, it was fit and proper that education should have been encouraged for such purposes, in the cases referred to.

But, sir, the original States having the exclusive right to legislate for themselves, upon such subjects, and Congress having no superintendence over morals, religion, education, or other objects of municipal regulation, within the several States, have no authority to interfere with them in any manner whatever. Such objects are, as to Congress, *coram non judice*, and therefore, we can neither legislate upon them to their benefit, or to their injury. Let us not forget, sir, that the power to do the one, admits the possibility, at least, of doing the other, since all power is liable to abuse. And if ever the day shall arrive, when the authority of this Government shall be admitted to extend to such objects, then, adieu to all State sovereignty. It will be completely swallowed up in the great vortex of a grand consolidated National Government. In this point of view, therefore, it is evident, there is no analogy between those cases, and that the claim of the original States can derive no possible support from any of the considerations that have been referred to.

Let us now, Mr. President, said Mr. E., inquire whether the claim of the original States can be better supported upon any other principles, that could have led to the adoption of the present system of disposing of the public lands.

By this system all those lands are divided into townships of six miles square. These again are subdivided into thirty-six sections of one mile square. One of which is reserved to be granted to the inhabitants of the township, for the use and support of a common school therein. But, sir, as all settlements upon the public lands are prohibited under severe penalties, the township must be sold before it can be inhabited. The citizens of the new States, therefore, can only enjoy the full benefit of a reserved section, upon the condition of purchasing the remaining thirty-five sections of the township. Would it, then, comport with "impartial justice" to grant such a benefit to the citizens of other States, without requiring any condition whatever? Would it be right, sir, to punish the citizens of the new States for daring to intrude upon a reserved section, without having previously purchased thirty-five sections, and at the same time to bestow a section gratuitously upon others, merely because you had allowed the former the privilege of acquiring one upon the terms I have mentioned? Surely not, sir.

Mr. E. contended that those reservations had, undoubtedly, increased the intrinsic value of the residue of the land—and that, on the other hand, its value and productiveness, as a national fund, would as certainly be greatly deteriorated, by the proposed donations to the old States.

I acknowledge, sir, said he, that the proportion in which the reserved sections have enhanced the value of the residue, cannot be ascertained with any thing like mathematical certainty; but, judging from all the lights which many years' experience has shed upon the subject, there seems to be no reason to doubt that townships, with those reservations, have commanded, and will continue to command, a higher price than they would sell for without them. And considering how highly the gentleman from Maryland estimates the value and advantages of education, it is surprising that he should have any doubt of the correctness of this conclusion. If, then, such be the fact, those reservations lose all the character of donations, because they are more than paid for in the sale of the residue of the land; of course, they furnish no precedent for the pure donations now proposed to be granted.

Again, sir, no citizen of the new States can enjoy, or derive the slightest benefit from the reserved sections, without paying for it, since no privilege, interest, right, or title, in them, can be acquired, without purchasing land at a higher price than it would sell for without them. This difference, therefore, whatever it may be, is the price actually paid for the interest acquired in them, which must be in exact proportion to the quantity of land purchased. Even upon the improbable supposition, that the consideration thus given were an inadequate one, still I presume it can hardly be contended by the honorable gentleman from Maryland that this circumstance can justify grants in favor of the citizens of other States, without any consideration at all.

But, sir, settlement, as well as purchase, is an indispensable prerequisite to the right of enjoying the use and benefit of the reservations. Its importance to the Union may well be imagined by contrasting the present value of the national domain with what would probably have been its value had it remained to this time waste and uninhabited. And this is certainly but a fair and just view of the subject; for, if the new States are to be charged with the reserved sections, they surely ought to have credit for the value which their settlements and improvements may have imparted to the residue.

Sir, said Mr. E., with the settlement of the country its improvements must progress. These, by multiplying the comforts, conveniences, and advantages, of a residence in it, will continue to render the vacant residuum more desirable, more valuable and available, till the whole of it shall be disposed of. The policy, therefore, which has hitherto required the condition of settlement, must continue to prevail, so long as the United States retain any of those lands, and are desirous of disposing of them to the best advantage. But this requisite, also, is to be dispensed with in favor of the citizens of the original States, without requiring any thing whatever of them to counter-balance it. Would this be fair and impartial justice?

According to any correct view of the subject, it is manifest that the citizens of the original States

participate largely in the benefits of the present reservations for the support of education. But those of the new States can have no such correspondent interest in the proposed donations. These are intended for the exclusive benefit of the former. Nor is any thing proposed in favor of the latter, as a counterpoise, or equivalent, for this want of reciprocity, or glaring inequality: and surely they who have reposed in perfect safety, under the shade of their own vines and fig trees, at their native homes, are not entitled to be placed in a more eligible situation, in relation to the national domain, than those who braved the dangers, encountered the difficulties, and submitted to all the privations incident to the settlement of it.

It is admitted, sir, that one of the principal objects of the reservations was to encourage emigration; and the policy of the measure, in that respect, is not questioned. Yet it is contended that the right of the original States to an equal portion of the public lands, for the support of education, within their respective limits, grew out of the adoption of that measure, is coeval with it, and is not at all impaired by the delay in asserting it. But, really, sir, it appears to me, that those cases not only do not rest upon the same foundation, but that the latter is entirely inconsistent with, and calculated to defeat the very policy of the former. To adopt a measure to promote emigration, and, at the same time, to grant equal advantages to all those who might not choose to emigrate, would be very much like a sport which many of us have witnessed in our younger days, of building up with one hand, for the mere pleasure of knocking down with the other. No one could be attracted to a remote wilderness by advantages which he could equally enjoy without going there. In this respect, therefore, the policy of those measures is so directly hostile to each other that the one must necessarily exclude the other.

But, sir, with whatever objects or motives the present system of disposing of the public lands may have been adopted, let it be remembered that, though now complained of, as if it had been the decision of some partial, unjust, corrupt, foreign tribunal, it was a measure of the original, now complaining States themselves—and unless communities, when the sole arbiters in their own cases, are infinitely more liable than individuals to lose sight of their interest altogether, and be unjust to themselves, it must have been adopted for their own benefit, and fully have they realized all the advantages anticipated from it. It could not have been intended to operate upon persons who had gone to the public domain, if there were any such; but only upon those who could be induced to go there. All the advantages and inducements which it tendered, were then, constantly have been, and still are, offered alike to the free acceptance of every citizen of the Union, and consequently it was, in its origin, has continued to be, and still is, equally fair and just, in relation to all of them. Nothing, therefore, can be more unreasonable, than to consider those reservations as partial donations to States that had no existence, or to a territory, unpeopled but by savages, to be subdued and expelled.

Permit me here, sir, to avail myself of the example of the honorable gentleman from Virginia, in referring to that portion of the national domain which lies upon the Pacific Ocean. In its present situation, as a source of revenue, it is not now, nor can it ever be, of any manner of use to us. As was correctly stated by the gentleman to whom I refer, a project for establishing a colony upon it, has already engaged the deliberations of one branch of the National Legislature. Suppose then, that Congress, with a view to revenue, to commercial advantages, to the security of our traders, and to prevent the encroachments of rival Powers should, with universal consent and approbation, tender to every citizen of the United States any inducements whatever to emigrate thither—for whose, but the benefit of the Union would this measure be adopted? How, and in favor of whom, could it be considered unjust and partial, even before the terms of it had been accepted by a solitary individual? If fair and just in its origin, how could it become otherwise merely by effecting the very objects it was intended to accomplish? Could mere inducements to emigration, in this case, be considered as originating a claim to equal advantages in favor of all those who might not to choose to emigrate? How wonderfully efficient, sir, would be a measure for such a purpose, which should promise to every citizen the same benefits for staying at home, with which it intended to tempt his removal to a distant, unsettled country, through a trackless wilderness of vast extent. As well, sir, might every citizen of the United States now demand of you a quarter section of land, because you gave that quantity to the soldiers of your late Army. Nor could any thing be more outrageously unjust, than to promise your fellow-citizens a gratuity for settling upon the public land, and then to make them pay for it by deducting its full value from their due proportion of a common stock, as is proposed to be done by the proposition upon your table.

Sir, said Mr. E., the claim of the original States has been particularly insisted upon, because, in the encouragement which they themselves afforded to emigration, for the sake of their own interest, too, they have, forsooth, lost a part of their population and wealth.

An argument so sectional and anti-national in its character, surely comes with a bad grace from those who, with a perseverance threatening the most disastrous consequences to our common country, at a most awful crisis, insisted that those lands should be ceded, settled, and formed into separate States, for the purpose of paying the debts, promoting the interest, and advancing the security, of the Union. How, sir, could any one of those objects be accomplished without disposing of the land? Who would have bought it without a view to its settlement by himself or others? And by whom, but citizens of the United States, was it intended to be settled? It is not to be supposed that any of the States could for a moment have yielded to a policy so contracted and selfish as to have wished to have exempted themselves from the disadvantages common to all of them in consequence of those cessions, or to have enjoyed the

MARCH, 1822.

Lands for Education.

SENATE.

full benefit of them, at the exclusive cost of others. No State, in fact, would have submitted, or would now submit, to the exclusion of her citizens from the right of emigrating to the public lands. The original States, therefore, cannot justly claim an equivalent for a privilege which they themselves secured to their own citizens, and which they would not now be so unjust as to relinquish, were it in their power to do so.

The motive, sir, to encourage emigration, being the advantages expected to be derived from it, these must have been the only equivalent contemplated for any encouragement given to it. The benefits, therefore, offered to emigrants, depending upon a condition from which the States expected correspondent advantages, at least, whenever that condition was fulfilled the consideration of those benefits was fully discharged, and no other equivalent can, in reason or justice, be demanded.

Nor have the original States any reason to complain that their citizens have exercised and enjoyed the benefits of the privilege thus secured to them; for such were not only the necessary and intended consequences of their own measure, but they were of the very essence of the contracts upon which the public lands were ceded. Sir, you took them upon those terms, "for better, for worse," and have infinitely less reason to complain than the man who sought to be absolved from his matrimonial obligations, because he had found his wife all of the worse, and none of the better. You have realized important advantages in the increased value and utility of the land; the improved condition of your population; the development of the resources of your country; the extension of your commerce and navigation; the augmentation of your revenue; the support of public credit; and the security of your borders.

These advantages, however, are much less the result of your own liberality, than of the bold, enterprising, adventurous, and aspiring character of your population, and the superior liberality of some of the States, whose lands adjoined yours. No Government, I will venture to say, has ever yet established a distant colony, similarly situated, upon terms more advantageous to itself. None has ever given less to emigrants, or exacted more from them.

England, France, and Spain, have all held a part of our present domain; and by their superior regard to the law of nature and the Divine will, in the distribution of those Western lands, whilst they held them, have exhibited a contrast between monarchies and the freest Government in the world, which, I am sorry to say, is by no means favorable to the latter.

Mr. President, said Mr. E., had Pennsylvania, Virginia, North Carolina, and Kentucky, demanded two dollars per acre in good money, as the minimum price of their lands, and subjected all intruders to legal prosecution, and removal by military force, much of your great Northwestern territory—now so thickly populated, so highly cultivated and improved, so richly embellished with cities, towns, and villages, every where exhibiting monuments of the advance of science, the progress of the arts,

and the multiplication of the comforts and elegancies of civilized life—would still have been a waste uncultivated wilderness. The territory of those States being unoccupied, yours could never have been inhabited. They, therefore, by the population which they attracted to theirs, and by their wars to maintain it, expelled the savages from a large portion of yours, and thereby contributed more to its settlement than all that you have ever done towards it.

Yet, sir, some of the States seem to think they have had a hard bargain in taking the land at all, because they have lost a part of their population by it. But, sir, had it been retained by England, France, or Spain, it is by no means certain, that those States would have lost less. Had it remained the property of Virginia, owing to her superior liberality in such cases, as is evinced by her uniform conduct, there is every reason to suppose they would have lost more, and gained nothing.

I know, sir, said Mr. E., it has been very gravely asserted by one most respectable State, that, if the original States had been governed by a selfish policy, they would have thrown every impediment in the way of emigration to the national domain. This, however, does not appear to me to be very consistent with the motives which induced them so zealously to insist upon its being surrendered as a national fund; and besides the breach of faith involved in such a policy, it would have been just as rational as the Japanese mode of duelling, in which one man rips open his own bowels for the pleasure of imposing an obligation on another to follow his example. None could have lost more, or gained less, by such a measure, than those very States; and little can be known of the immense tracts of land in the Western country, which yet remain to be settled, if it can be supposed that any measure of that kind could have had any other material effect upon emigration, than to have changed its direction, and swelled the population of some of the other Western States. It is evident, therefore, that the inducements afforded to emigration by the original States, have neither been so purely gratuitous, nor its effects, which they so deeply deplore, so exclusively the results of their liberal forbearance to impede it, as seems to have been imagined.

In the enumeration of the grievances and injuries for which they demand indemnification, we find them complaining that the sale of their Western lands "has prevented an increase of the price of lands in the Atlantic States," though they have not a single acre of land of their own to dispose of in those States. Regretting exceedingly, sir, that my remaining strength does not admit of my entering into a full investigation of this singular ground of complaint, I will barely remark that the high price of land, so much desired, can only result from a density of population, from which much dependence and wretchedness would be inevitable; that there is nothing in the history of our own, or any other country to authorize the opinion that it would be more auspicious to the interest and happiness of the great mass of the population, or to the preservation of the free prin-

SENATE.

Lands for Education.

MARCH, 1822.

ciples of our Government; that its tendency would be to advance the interest of the few, that have land to sell, at the expense of the many, who have it to buy; and that, instead of impeding, it would be calculated to increase emigration—since, in proportion to the difficulty of obtaining lands in old States, there would be additional motives to seek it elsewhere.

Mr. E. here remarked, that, being himself greatly fatigued, and fearing he had exhausted the patience of the Senate, he should be compelled to omit, or postpone to a future stage of the discussion, other views of the subject, which he was anxious to present to the consideration of the Senate. I have, sir, said he, contrasted the relative situations of the citizens of the new and old States in relation to the proposed appropriation. I had intended to have presented similar contrasts between the claims of the new and old States themselves and between the grants made to the former, and those proposed to be made to the latter. I had, also, intended to have shown that, even admitting the principle contended for by the honorable gentleman from Maryland, the contemplated apportionment and distribution of the land would be manifestly unequal and unjust. That the demand on the part of the original States of an equivalent for the "particular" advantages which the new States derive from the present system of disposing of the public lands, for the benefit of the Union, is inconsistent with every idea of National Government; and that the latter States might, with equal propriety, demand an equivalent for the "particular" advantages which the former derive from the vast expenditure of public money within their limits, or from any other measure of national policy.

I find, however, I must content myself with remarking that you have granted to the new States nothing more than a mere naked trust to execute your own previous obligations, or to promote your future interest. So far as the public lands had been sold, the right to the reserved sections had vested in the inhabitants of the respective townships, and did not depend at all for its validity upon the grants to the States; for you neither could have withheld nor impaired it; nor can those States now do so. So far as the lands have not been sold, no right to the reserved sections has vested, or can vest, either in those States or the inhabitants thereof, but upon conditions hereafter to be performed, highly conducive to your own interest.

Suppose, sir, said Mr. E., the new States had refused to become your trustees, you would not, on that account, have changed your present system of disposing of the public lands; and you could not have sold a single reserved section, in any township in which a solitary sale of eighty acres only had been made. What, then, have you given to the new States? Nothing that you could or would have retained.

But in whatever light those grants are to be viewed, they are founded upon compacts which neither party is now at liberty to revoke, annul, or disregard. On the part of the new States, they have, I think, manifested great liberality in giving

a full equivalent for advantages that either would not, or could not have been withheld from them, if they had refused to give any thing. The State which I have the honor, in part, to represent, has probably, had a pretty hard bargain in agreeing to forbear to tax the lands of individuals, and in the consequent burdens imposed upon her own citizens, for all the considerations she received. She agreed to exempt from all taxation, three millions five hundred thousand acres of military bounty lands, for three years after the emanation of the grants; and at least thirty millions of acres of the public land, for five years, after the sale of it—

which, according to the State taxation,

As first rate, would be equal to	-	\$3,210,000
Second rate	-	2,250,000
Third rate	-	1,650,000
And at the average rate	-	2,370,000

If, then, sir, any of the old States insist upon having as much land as they contend has been granted to Illinois, let them first purchase the same quantity of land, which she either has purchased, or is bound to purchase, to perfect her title to the supposed grants—and let them also agree to pay the taxes upon the same quantity of land, which she has exempted from taxation—and for the same length of time—or talk no more about "fair and impartial justice."

The Senate then adjourned to Monday.

MONDAY, March 4.

Mr. WILLIAMS, of Tennessee, presented the petition of Return J. Meigs, agent for the United States in the Cherokee nation, praying relief in the settlement of his accounts in consequence of his having been robbed of a certain sum of money, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. RUGGLES presented the memorial of Henry P. Willcox, praying compensation for carrying George A. Hughes, the bearer of despatches from Hayre de Grace to the United States. The memorial was read, and referred to the Committee of Claims.

Mr. LOWRIE presented the memorial of the Pennsylvania Society for the encouragement of American Manufactures. The memorial was read, and referred to the Committee on Commerce and Manufactures.

Mr. HOLMES, of Mississippi, presented the petition of a number of the inhabitants of Alabama, praying certain regulations in the disposal of lands of the United States. The petition was read, and referred to the Committee on Public Lands.

The bill for the relief of the President and Directors of the Planters' Bank of New Orleans, was read a third time, and passed.

On motion, by Mr. BENTON, the Message of the President of the United States, of the 23d ultimo, respecting the sum of 15,000 dollars, appropriated to promote civilization among friendly Indian tribes, was referred to the Committee on Indian Affairs.

Mr. WILLIAMS, of Tennessee, gave notice that to-morrow he should ask leave to introduce a bill

MARCH, 1822.

The Proposed Adjournment.

SENATE.

to amend the laws now in force as to the issuing of original writs and final process in the circuit courts of the United States, within the State of Tennessee.

The bill allowing a drawback on the exportation of cordage manufactured in the United States from foreign hemp was read the second time.

The bill for ascertaining claims and titles to land within the territories of East and West Florida was read the second time.

The bill for the relief of the sureties of Joseph Pettipool was read the second time.

The Senate resumed the consideration of the motion of the 10th of January last for the appropriations of territory for the purposes of education; and, on motion by Mr. SMITH, it was laid on the table.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the military service of the United States for the year 1822, and towards the service of the year 1823;" and, also, a bill, entitled "An act to amend the act, entitled 'An act to establish the district of Bristol, and to annex the towns of Kittery and Berwick to the district of Portsmouth,'" passed February 25, 1801, in which bills they request the concurrence of the Senate.

The Senate then took up the bill to establish a government for the Territory of Florida, and spent the remainder of the sitting in discussing and maturing its numerous provisions; in the course of which, Mr. WALKER offered an amendment containing provisions for annexing a part of West Florida to the State of Alabama. This amendment was ordered to be printed, and the bill was laid on the table.

THE PROPOSED ADJOURNMENT.

The Senate took up the resolution offered by Mr. KING, of New York, on Friday, proposing that the present session be adjourned on the first Monday in April.

Mr. K. merely observed that nothing had yet been done; that nothing more than the ordinary and necessary business of the session would be done; and it was better, therefore, to terminate the session.

Mr. SMITH said that, owing to the larger number of the other House, it was true it had not progressed with business as fast as the Senate; and it was not to be expected that it could. The great mass of business was generally considered and acted on in the other House first; they knew what they had to do, and it was better that a proposition to fix a day for adjournment should come from that House. Though much had not yet been done, it was no reason that much should not be done; but it could not be unless time sufficient were allowed. If the session should be limited to a period too soon for completing the public business, it would be followed by a bill to meet earlier at the next session; so that nothing would be gained by a hasty adjournment. It was certainly too soon to fix a day of adjournment; there was much important business before both Houses,

which ought to be acted on deliberately; and it was impossible to say now exactly how long it would require.

Mr. HOLMES, of Maine, thought it was time to go home; nothing would be lost by postponing most of the important questions now before Congress to the next session; and he was the more in favor of an early adjournment, as it would, he hoped, be the foundation of an act for an earlier meeting of the next session. Under the present arrangement of the meetings and adjournments of Congress, the Northern members labored under the disadvantage of coming and returning at a bad season, both as it regarded the weather and the roads. He saw no reason why one session should be six months and the other three months long. By adjourning earlier and meeting earlier, every alternate session, the sessions would be equalized, and the inconveniences he had referred to would be done away.

Mr. KING, of New York, said, at the opening of the session, the President gave such a view of the public affairs as presented very little business for the consideration of Congress. The finances of the country, it was stated, were free from difficulty, the income being sufficient for the public expenditures; and, as the great business of the money affairs of the nation stood well, there was not much at the beginning of the session which demanded the attention of Congress. Mr. K. said the session had passed off in a very indolent manner, and it was desirable that it should be brought to a speedy close. If there was any thing of importance necessary to be done, it had already received such a portion of consideration as to be acted on within the time proposed by the resolution. But, he repeated, that, as there was nothing to do, and as nothing would be done, it was better to adjourn. If the other House should think differently, they could say so; it was for them to be responsible for protracting the session, if they deemed it necessary; but it was time the Senate should say that they were ready to close the session.

Mr. VAN DYKE said no inconvenience or injury could arise from adopting the resolution. Congress had been a long time in session; the records would show that very little had been done, and the files would show that little of what might be called public business claimed attention. It would be as well to remind the other House that the Senate had nothing before it which would prevent an adjournment, and that it would be prepared to close the session by an early day.

Mr. LOWRIE observed, that if this resolution passed, it would be at least admitted that many of the committees had been very unnecessarily occupied with the business referred to them. But, he conceived, if it was right in the Senate to impose on committees the labor of investigating subjects, it was proper for the Senate to consider and dispose of the reports which were made. He alluded particularly to the Committee on Public Lands, and the number of important cases referred to it, relative to private claims, which had been reported on, and which, in justice to the petitioners, ought

to be acted on. As to public business, Mr. L. said that it was desirable that it should never be legislated on very rapidly or hastily. For these reasons he was opposed to the resolution, and moved, to try the question, to strike out the *first* Monday of April and insert the *third* Monday, which would extend the session to the 15th of the month. He was as anxious as any member to terminate the session, but could not consent to do so until the public business was attended to, and the numerous petitions now before Congress disposed of.

Mr. R. M. JOHNSON, of Kentucky, was in favor of short sessions—he was fully committed on that subject; he had encountered, on a former occasion, much responsibility to attain the object, and it was completely attained, and all the public business promptly as well as deliberately acted on, during the short period that the famous compensation law was in force. His friend from North Carolina (Mr. MACON) had often said that this was a talking Government, and it was perhaps as just a definition as could be given of it; but Mr. J. said he thought four months was long enough to talk at one session. He was in favor of fixing on a day, (he cared not whether it was the first or the second Monday,) because he wanted to rest his hopes on some definite point: he liked to know when he might expect to go home: and Mr. J. said he believed it would be much better if the first thing which should be done at the unlimited session of every Congress, after receiving the President's Message, was to fix a day of adjournment; the business of the session would be transacted accordingly, and attended to in time. Mr. J. said the docket of Congress was never cleared but once, and that was a short session too, when, as he before stated, a salary was received by the members instead of a per diem allowance; and he should rejoice, he confessed, to see the day when compensation should be made in the same mode, even if the salary were \$500 instead of 1,500, or to see the per diem ten dollars, limited not to exceed \$1,000 for a year. This, after all, was the only mode to obtain a proper transaction of the public business; every measure would receive a proper degree of discussion and no more; and Congress would not spend its time in beating the wind on subjects which were not expected to pass, or result in any thing practical. Mr. J. was opposed to protracting the session to the first of May; when the warm season approached, no one's health could stand continued mental labor without bodily exercise, and he for one was unable to have the advantage of exercise, as he was obliged to limit his expenses to his per diem, and that did not allow him to keep horses here for the purpose of exercise. Mr. J. was in favor of an earlier adjournment and an earlier meeting at the short session, that the terms might be more nearly equalized.

Mr. LLOYD said, if the adoption of the resolution could expedite the adjournment, he would be in favor of it; but the experience of this morning proved to him that it would not; and, indeed, he never saw these resolutions have any effect but to give rise to debate. If we are seriously disposed

to close the session, said Mr. L., let us go seriously to work on the business before us. The time spent in this very debate might have been saved, and something useful acted on. Mr. L. was not aware of many questions of national importance which required the attention of Congress; but, as long as the right of petition was secured to the people—as long as they had the right to come before Congress for a redress of grievances, it was the bounden duty of Congress to hear and decide on their petitions. These were generally presented to the other House through the immediate representatives of the people, and it was for that House to say when they could get through the claims before them, and complete their business. Mr. L. was in favor, therefore, of waiting for the House of Representatives to suggest a day of adjournment.

Mr. WILLIAMS, of Tennessee, observed that, if they were to judge of the future by the past, he had no confidence that much business would be done, and he was, therefore, in favor of the earliest day of adjournment. If the orders of the day were examined, Mr. W. said, it would be found that the whole of the business now before it could be despatched in two weeks; the other House might require perhaps three weeks—then, allowing one week for the new business which might be reported—the whole time necessary for the session would be but four weeks, and bring it within the period proposed by the resolution. He was sure the business might be fully and properly transacted in that time, by meeting early. The people complained of the waste of time in Congress, and very justly; for it seemed to him as if a passion for endless debate had seized upon Congress. He trusted the session would be brought to as early a close as possible.

Mr. MACON said, gentlemen from the North complained that the roads were bad, at the seasons when Congress met and adjourned; but he had always understood that the roads were all turn-piked north of Maryland, and that it was the Southern members who labored under this disadvantage; but surely roads which the neighbors used every day could be travelled by members of Congress twice a year. This, however, was not the question. The real question was, whether the business could be done in a given time. He should vote for the resolution, no matter what day was inserted, as he wished to fix on some day; for, he said, legislation was like a snow ball; the more you roll it the bigger it grows, and the longer we sit here, said Mr. M. the more business we make. Fix a day and we shall get clear of those incessant motions for new subjects, and the business before us will be taken up and done.

Mr. SMITH, to show the futility of fixing on a day so long in advance, referred to an instance in which the Senate had proposed to the other House to terminate the session on the 10th of April, and they did not actually adjourn until the 15th of May. It was impossible to say whether the public business could be brought to a close by a particular day so far ahead. This, he remarked, had been called a talking Government; it was

MARCH, 1822.

Proceedings.

SENATE.

so; and he cared not what was said, so long as the public business did not go undone. Was the fatigue complained of, incurred in doing nothing? Was not the Senate, he asked, every day engaged in considering some business or other in which the people were interested? So long as he was conscious of not neglecting his public duties, he disregarded any thing that was said by the newspapers. As to the complaints of the printers, they would always complain, whether with or without reason; some of them wished to take away our desks, others might next propose that we dispense with our seats; and many, no doubt, would think our time well employed if it were entirely spent in reading the useful information of the newspapers. But the complaints referred to, Mr. S. contended were in a great measure unfounded and unjust. Who could tell the time necessary for the investigation of the various questions which came before Congress for consideration, but those who were here to witness the intricacy of many of them, the difficulty of arriving at right conclusions, the numerous documents connected with them, the ingenuity of claimants, and the necessity of mature deliberation. Few persons at a distance could appreciate these reasons for delay, in deciding even on the multitude of private claims, and still less on the necessity of fully examining questions of great national concern before they were decided on. Was Congress, he asked, to transform itself into a Quaker meeting, take up every thing at a word, discard all debate, and decide every question by simple yea and nay? Mr. S. avowed his belief that the safety of the liberties of the country lay in deliberation; and, although much might be uttered here which was unnecessary, or even foolish, this was a small evil compared with the value of discussion and deliberation. It is very true that all the business before Congress was disposed of at one session; he should never forget it; and he well remembered that between eight o'clock at night of the last day of that session, and the following morning, the President of the United States approved and signed between seventy and eighty bills; there was no time allowed for discussion; no man dared attempt to speak on them; all that he could do was to say ay or no; the rule was suspended which required the bills to be read on different days, all the safeguards of deliberation were broken down; and he well remembered that seven laws passed three readings in ten minutes, for he had held his watch in his hand and noted the time. These were the fruits of precipitate adjournment. The same consequence would always ensue if time were not allowed for the deliberate transaction of the business. This was not the way to legislate on the important affairs confided to them by the people.

Mr. OTIS said, that, from the earnestness with which this resolution was debated, one would suppose that it was a motion to coerce the other House into an adjournment. He presumed the proposition must begin somewhere; and, under present circumstances, it could not be expected to originate for some time to come in the other House.

They could not, after occupying so many weeks in preparing business for this House to act on, be expected to follow it with a proposition to us to adjourn. It would come with more propriety from this House, because it was for the Senate to say when they could probably get through the business sent up from the House of Representatives for concurrence. It was a fact, Mr. O. said, that the business of the country was unnecessarily procrastinated, and it was proper for the Senate to show that it, at least, was unwilling to prolong the session beyond a reasonable period, or to consume time unnecessarily.

Mr. JOHNSON, of Kentucky, rose to explain. The session which he had alluded to, in which the business was all completed, was not the session referred to by Mr. SMITH, in the last night of which so much hurry took place. The session Mr. J. had alluded to, although a short one, was closed without confusion or any precipitation of the public business—in fact nearly all the business was finished three days before the day fixed on for the adjournment; and the two Houses had some thought of adjourning before the time had entirely elapsed which they had previously prescribed for the termination of the session. The business of the session, Mr. J. said, was not only brought to a close with ease, but it was acted on deliberately—it was business too of high interest and no little difficulty, much of which he cited particularly to exhibit its important character. The acts of that session, he said, and the mode of their transaction, would reflect honor on any legislative body that ever met in this or any other country. This, he repeated, was during the existence of the celebrated *Compensation law*, the expediency and good effects of which he would always maintain, although he had the misfortune, in this, to differ with his friends at home.

The motion made by Mr. LOWRIE, to strike out the first Monday of April, and insert the second, was lost—ayes 15, noes 24; and the resolution was agreed to, ayes 23.

The Senate then adjourned.

TUESDAY, March 5.

The PRESIDENT communicated a letter from the Secretary of State, transmitting a list of the American seamen registered in the several ports of entry in the United States for the year 1821; and the letter and list were read.

The PRESIDENT also communicated a letter from the Secretary of the Treasury, transmitting, in obedience to a resolution of the Senate of the 22d ultimo, a copy of a patent which issued under an act of Congress, passed on the 1st day of June, 1796, "conveying to the Society of United Brethren for propagating the Gospel among the Heathen three tracts of land of four thousand acres each, in the State of Ohio, in trust for the sole use of the Christian Indians formerly settled there." The letter and accompanying document were read.

Mr. WILLIAMS, of Tennessee, asked and obtained leave to introduce a bill to amend the laws

SENATE.

Government of Florida.

MARCH, 1822.

now in force, as to the issuing of original writs and final process in the circuit courts of the United States, within the State of Tennessee. The bill was read, and passed to the second reading.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of Joseph C. Boyd, of Portland, in the State of Maine, made a report, accompanied by a bill for the relief of Joseph C. Boyd. The report and bill were read, and the bill passed to the second reading.

The PRESIDENT communicated a letter from Charles Bulfinch, architect of the Capitol, relative to the appropriation of a room for one of Colonel Trumbull's paintings. The letter was read, and referred to the Committee on the District of Columbia.

Mr. BARTON, from the Committee of Claims, to whom was referred the petition of Samuel Monett, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted.

The two bills brought up yesterday from the House of Representatives for concurrence, were severally twice read by unanimous consent, and respectively referred to the Committee on Finance.

The Senate took up the resolution offered by Mr. ELLIOTT, on Friday last, relative to the claims of Georgia for militia services rendered in 1792, 1793, and 1794, and after some remarks by Mr. E., explanatory of the subject, the resolution was agreed to.

The resolution submitted by Mr. FINDLAY, on Friday last, relative to the prohibition of foreign spirits, was taken up and agreed to.

The resolution offered by Mr. JOHNSON, of Louisiana, on Friday last, relative to the establishment of a marine hospital at New Orleans, was also taken up and agreed to.

GOVERNMENT OF FLORIDA.

The Senate then resumed the consideration of the bill to establish a government for the Territory of Florida—the question being on the motion made yesterday by Mr. WALKER, to introduce the following amendment into the bill:

“That, in case the General Assembly of the State of Alabama shall consent thereto, all that tract of country comprehended within the following bounds, to wit: Beginning at the mouth of the Perdido river; thence, up the same, to the thirty-first degree of north latitude; thence, along the said degree of latitude, to the middle of the Chatahoochee river; thence, along the middle of the said river Chatahoochee or Apalachicola, to the Gulf of Mexico; thence, westwardly, including all adjacent islands dependent on the late province of West Florida, to the place of beginning, shall become and form a part of the State of Alabama, and be subject to the constitution and laws thereof, in the same manner, and for all intents and purposes, as if it had been included in the original boundaries of the said State;” and another section providing for the representation of the same in the Legislature of Alabama, &c.

On this proposition a debate followed, which continued till past 4 o'clock. The amendment was advocated by Messrs. WALKER, KING, of Alabama, SMITH, KING, of New York, MILLS, and MORRIL; and it was opposed by Messrs. BAR-

BOUR, HOLMES, of Maine, OTIS, VAN BUREN, WILLIAMS, of Tennessee, VAN DYKE, BENTON, CHANDLER, and ELLIOTT. It was opposed, not on the ground of its inexpediency in principle, but, generally, that the annexation would, for various reasons, be premature at this time. The question being taken on the amendment, it was decided, by yeas and nays, in the negative, as follows:

YEAS—Messrs. Boardman, Brown of Ohio, D'Wolf, Dickerson, Findlay, King of Alabama, King of New York, Knight, Lanman, Lowrie, Mills, Morrill, Palmer, Ruggles, Seymour, Smith, Thomas, Walker, and Williams of Mississippi—19.

NAYS—Messrs. Barbour, Barton, Benton, Brown of Louisiana, Chandler, Eaton, Elliott, Gaillard, Holmes of Maine, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, Lloyd, Macon, Noble, Parrott, Pleasants, Southard, Stokes, Talbot, Taylor, Van Buren, Van Dyke, Ware, Williams of Tennessee—25.

WEDNESDAY, March 6.

Mr. JOHNSON, of Louisiana, from the Committee on Indian Affairs, laid before the Senate a communication from the Superintendent of Indian Trade, together with sundry documents relating to the factory system; which were read.

Mr. THOMAS, from the Committee on Public Lands, reported a bill supplementary to the act, entitled “An act for the relief of the purchasers of public lands prior to the first day of July, 1820. The bill was read, and passed to the second reading.

Mr. BROWN, of Ohio, submitted the following motion for consideration:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Lancaster to Lebanon, in the State of Ohio, passing on the most direct road, through the towns of Circleville, Washington, and Wilmington.

Mr. EATON presented the memorial of E. W. Durnford, of Canada, stating his title to certain lands; which was read, and referred to the Committee on Public Lands.

The bill to amend the laws now in force, as to the issuing of original writs and final process in the circuit courts of the United States, within the State of Tennessee, was read the second time, and referred to the Committee on the Judiciary.

The bill for the relief of Joseph C. Boyd was read the second time.

The Senate proceeded to consider the report of the Committee of Claims, to whom was referred the petition of Samuel Monett; and, on motion by Mr. RUGGLES, it was laid on the table.

The bill concerning the commerce and navigation of Florida, was considered as in Committee of the Whole, and occupied the Senate for some time; and, having been gone through, it was ordered to be engrossed, and read a third time.

Mr. KING, of New York, from the Committee on Foreign Relations, made an unfavorable report on the petition of Reuben Shapley.

MARCH, 1822.

Proceedings.

SENATE.

GOVERNMENT OF FLORIDA.

The Senate then resumed the consideration of the bill to establish a government for the Territory of Florida, and spent some time in considering the amendments adopted yesterday in Committee of the Whole. Among the propositions made to amend the bill this day—

Mr. EATON moved to confine all the sittings of the Legislative Council of the Territory to one place, (Pensacola,) instead of their being held at Pensacola and St. Augustine alternately. The motion was opposed by Messrs. SMITH, and HOLMES of Maine, and, after being debated a short time,

The question was taken on the motion, and lost—ayes 11.

The Committee of the Whole, yesterday, on motion of Mr. KING, of Alabama, struck out of the bill the following clause of the eleventh section:

“No slave or slaves shall, directly or indirectly, be introduced into the said Territory, except by a citizen of the United States, removing into the said Territory for actual settlement, and being, at the time of such removal, bona fide owner of such slave or slaves; and every slave imported or brought into the said Territory, contrary to the provisions of this act, shall, thereupon, be entitled to, and receive, his or her freedom.”

On the question of concurring with the committee in striking out the clause, Mr. MILLS made some remarks to show the expediency of retaining it in the bill. Mr. KING, of Alabama, replied, and Mr. MILLS further advocated a disagreement to the amendment. Messrs. BARTON and VAN BUREN joined briefly in the discussion, and Mr. LLOYD spoke against the clause at considerable length, and with much earnestness.

The question on agreeing with the Committee of the Whole in striking out the clause, was decided by yeas and nays, in the affirmative, as follows:

YEAS.—Messrs. Barbour, Benton, Brown of Louisiana, D'Wolf, Eaton, Elliott, Gaillard, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Lloyd, Macon, Noble, Pleasants, Smith, Southard, Stokes, Van Dyke, Walker, Ware, Williams of Mississippi, and Williams of Tennessee—23.

NAYS.—Messrs. Barton, Boardman, Brown of Ohio, Chandler, Dickerson, Findlay, Holmes of Maine, King of New York, Knight, Lanman, Lowrie, Mills, Morrill, Otis, Palmer, Parrott, Ruggles, Seymour, Thomas, and Van Buren—20.

Considerable debate took place on a motion of Mr. EATON to amend the bill so as to provide that, in case of the absence of the Governor from the Territory, his duties shall devolve on the Secretary of the Territory. The motion being changed on the suggestion of Mr. WILLIAMS, of Mississippi, so as to embrace, verbatim, the similar provision of the act of 1789, respecting the government of Territories, the amendment was agreed to.

A motion was made to reduce the number of the Legislative Council from thirteen, as proposed by

the bill, to seven, but was lost; and no other amendment being offered thereto,

The bill was then ordered to be engrossed, and read a third time.

THURSDAY, March 7.

Mr. THOMAS, from the Committee on Public Lands, to whom was referred the bill to amend the act granting the right of pre-emption to certain settlers in the State of Louisiana, and for other purposes, reported the same without amendment.

Mr. JOHNSON, of Louisiana, gave notice that tomorrow he should ask leave to introduce a bill for the better organization of the district court of the United States within the State of Louisiana.

The bill supplementary to the act, entitled “An act for the relief of the purchasers of public lands prior to the first day of July, 1820,” was read the second time.

The Senate proceeded to consider the motion of the 6th instant, for instructing the Committee on the Post Office and Post Roads to inquire into the expediency of establishing a certain post route in the State of Ohio, and agreed thereto.

The Senate also proceeded to consider the report of the same committee, on the petition of Francis Henderson and family; and in concurrence therewith, the committee were discharged from the further consideration of the petition; and the same was referred to the Committee of Claims.

Mr. JOHNSON, of Louisiana, presented the petition of Marie Louise Celeste and Constance Valentine, daughters and heirs of Marie Therese, deceased, praying confirmation of their claim to a tract of land. The petition was read, and referred to the Committee on Public Lands.

Mr. FINDLAY presented the petition of a number of the citizens of Pennsylvania, praying the establishment of a certain post route; the petition was read, and referred to the Committee on the Post Office and Post Roads.

Mr. LLOYD presented the memorial and remonstrance of a number of the merchants and traders of Baltimore, in favor of the existing laws concerning the West India trade. The memorial was read, and referred to the Committee on Foreign Relations.

Mr. R. M. JOHNSON, of Kentucky, presented a petition from John Cleves Symmes, of Cincinnati, in Ohio, stating his belief of the existence of an inhabited concave to this globe; his desire to embark on a voyage of discovery, to one or other of the polar regions; his belief in the value and great honor to his country of the discoveries which he would make; that his pecuniary means are inadequate to the purpose, without public aid; and suggesting to Congress the equipment of two vessels of 250 or 300 tons for the expedition, and the granting of such other aid as Government may deem requisite to promote the object. A motion was made to refer the petition to the Committee on Foreign Relations, which was refused; and, after some conversation, it was decided to lay it on the table—ayes 25.

SENATE.

Districts East of New Orleans.

MARCH, 1822.

The report on the petition of Reuben Shapley was considered, and agreed to.

FRIDAY, March 8.

Mr. HOLMES, of Maine, from the Committee on Finance, to whom was referred the bill, entitled "An act making appropriations for the military service of the United States for the year 1822, and towards the service of the year 1823;" and also the bill, entitled "An act to amend the act, entitled 'An act to establish the district of Bristol, and to annex the towns of Kittery and Berwick to the district of Portsmouth,' passed February 25, 1801," reported the same, respectively, without amendment.

The bill for the establishment of a territorial government in Florida was read a third time, and passed.

The bill concerning the commerce and navigation of Florida was read a third time, and passed.

Mr. HOLMES, of Maine, from the Committee on Finance, reported a bill further to continue in force and perpetuate an act passed on the twentieth day of April, in the year 1818, entitled "An act supplementary to an act, entitled 'An act to regulate the collection of duties on imports and tonnage,' passed the second day of March, 1799." The bill was read, and passed to the second reading.

Mr. BENTON, from the Committee on Indian Affairs, laid before the Senate sundry documents touching the factory system, its agents, and the fur traders; which were read, and laid on the table.

Mr. HOLMES, of Maine, submitted the following motions for consideration:

Resolved, That the President of the United States be requested to communicate to the Senate, the expenses of building each vessel of war, at each navy yard in the United States, authorized by an act of the 2d of January, 1813, to increase the Navy of the United States, and the acts supplementary thereto; distinguishing each vessel so built; the expenses of timber, iron, copper, cordage, hemp, cloth, and other materials; the amount paid to agents or superintendents, specifying their names; the amount paid for labor, particularising carpenters, mast makers, boat builders, block makers, blacksmiths, armorers, reemers, caulkers, gun-carriage makers, sawyers, riggers, and other laborers.

Resolved, That the President be requested to communicate to the Senate, the names and number of officers and men belonging to the Navy, employed in, or attached to, each navy yard in the United States, with the service each has performed, and the compensation each has received in pay, rations, and other emoluments, during the two last years, ending on the first of January last.

Mr. SMITH, from the Committee on the Judiciary, to whom was referred the bill to amend the laws now in force, as to the issuing of original writs and final process, in the circuit courts of the United States within the State of Tennessee, reported the same without amendment.

On motion, by Mr. SMITH, the Committee on the Judiciary, who were instructed, by a resolution of the Senate of the 1st ultimo, to inquire

into the expediency of providing by law a mode of referring disputed pecuniary claims of individuals, either of a legal or equitable nature, against the United States, to the Federal judiciary within the several States or Territories, for ascertainment and decision, were discharged from the further consideration of the subject.

Mr. JOHNSON, of Louisiana, asked and obtained leave to introduce a bill for the better organization of the district courts of the United States within the State of Louisiana. The bill was read, and passed to the second reading.

Mr. JOHNSON, of Kentucky, submitted the following motion for consideration:

Resolved, That the Committee on Indian Affairs be instructed to inquire into the expediency of authorizing the President of the United States to take such measures as he may deem proper to prevent wars among the aborigines within our jurisdictional limits.

DISTRICTS EAST OF NEW ORLEANS.

The Senate resumed the consideration of the bill supplementary to the several acts for adjusting the claims to land, and establishing land offices, in the districts east of the Island of New Orleans; and, the amendments made as in Committee of the Whole having been concurred in; on motion, to strike out the fourth section of the bill, as follows:

SEC. 4. *And be it further enacted*, That every person comprised in the list of actual settlers, reported by the said registers and receivers, not having any written evidence of claim to land in the said districts, and who, on the third of March, 1819, shall have inhabited or cultivated a tract of land in either of the said districts, not claimed by virtue of either of the preceding sections of this act, or by virtue of a confirmation under an act, entitled "An act for adjusting the claims to land, and establishing land offices, in the districts east of the island of New Orleans," approved on the third day of March, 1819, shall be entitled to a preference, on becoming a purchaser at private sale, from the United States, of such tract of land, on the same terms and conditions, and at the same price, for which the other public lands are sold at private sale: *Provided*, That no more than six hundred and forty acres of land shall be sold to any one individual in virtue of this act:

It was determined in the affirmative—yeas 26, nays 18, as follows:

YEAS—Messrs. Barbour, Boardman, Brown of Ohio, Chandler, D'Wolf, Dickerson, Eaton, Elliott, Gaillard, Holmes of Maine, Knight, Lanman, Lloyd, Lowrie, Macon, Mills, Morrill, Otis, Parrott, Pleasants, Ruggles, Smith, Southard, Taylor, Van Dyke, and Ware.

NAYS—Messrs. Barton, Benton, Brown of Louisiana, Edwards, Findlay, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Noble, Palmer, Seymour, Stokes, Thomas, Van Buren, Walker, Williams of Mississippi, and Williams of Tennessee.

On motion, by Mr. BARTON, to insert, in lieu of the fourth section, stricken out, the following:

And be it further enacted, That every person comprised in the list of actual settlers, reported by the said registers and receivers, not having any written evidence of claim to land in the said districts, and who, on the third of March, 1819, shall have inhabited or

MARCH, 1822.

Amendment to the Constitution.

SENATE.

cultivated a tract of land in either of the said districts, not claimed by virtue of either of the preceding sections of this act, or by virtue of a confirmation under an act, entitled "An act for adjusting the claims to land and establishing land offices in the districts east of the island of New Orleans," approved on the third day of March, 1819, shall be entitled to a preference on becoming the purchaser, at private sale, from the United States, of such tract of land, on the same terms and conditions, and at the same price, for which other public lands are sold at private sale: *Provided*, That no more than three hundred and twenty acres of land shall be sold to any one individual in virtue of this act."

It was determined in the negative—ayes 18, nays 26, as follows:

YEAS—Messrs. Barton, Benton, Brown of Louisiana, D'Wolf, Edwards, Findlay, Holmes of Mississippi, Johnson of Louisiana, King of Alabama, Noble, Palmer, Seymour, Stokes, Thomas, Van Buren, Walker, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Boardman, Brown of Ohio, Chandler, Dickerson, Eaton, Elliott, Gaillard, Holmes of Maine, King of New York, Knight, Lanman, Lloyd, Lowrie, Macon, Mills, Morrill, Otis, Parrott, Pleasants, Ruggles, Smith, Southard, Taylor, Van Dyke, and Ware.

The bill was then ordered to be engrossed and read a third time.

AMENDMENT TO THE CONSTITUTION.

The Senate, agreeably to the order of the day, took up, in Committee of the Whole, the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Electors of President and Vice President of the United States, and of Representatives in Congress, together with the following amendment proposed to the resolution by the select committee, to which it had been referred, viz:

"And, at the same time, the two additional Electors to which each State is entitled shall be chosen by the persons so qualified to vote, in such manner as the Legislature of the State shall direct."

Mr. DICKERSON briefly explained the operation of this amendment, which was reported by the committee to conform the resolution to the wishes of some gentlemen who considered such a provision essential.

On taking the question, this amendment was rejected in Committee of the Whole, by a small majority; but, on reporting the resolution to the Senate, the same amendment was moved again, and it was agreed to—ayes 25.

The question was then taken on engrossing the resolution as amended, and reading it a third time, and was decided in the affirmative, by yeas and nays—for the resolution 27, against it 12, as follows:

YEAS—Messrs. Barton, Benton, Brown of Louisiana, Brown of Ohio, Chandler, D'Wolf, Dickerson, Eaton, Edwards, Holmes of Maine, Holmes of Mississippi, Johnson of Louisiana, King of New York, Lanman, Lloyd, Macon, Otis, Palmer, Parrott, Seymour, Southard, Talbert, Taylor, Thomas, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Boardman, Elliott, Find-

lay, Gaillard, Johnson of Kentucky, Lowrie, Mills, Pleasants, Smith, Walker, and Ware.

The Senate adjourned to Monday.

MONDAY, March 11.

The Senate proceeded to consider the motions of the 8th instant, for requesting the President of the United States to communicate certain information respecting the Navy of the United States, and agreed thereto.

Mr. HOLMES, of Maine, from the Committee on Finance, reported a bill to provide for the collection of duties on imports and tonnage in Florida, and for other purposes; and the bill was twice read by unanimous consent.

The Senate proceeded to consider the motion of the 8th instant, for instructing the Committee on Indian Affairs to inquire into the expediency of authorizing the President of the United States to take measures to prevent wars among the Indians within our jurisdictional limits, and agreed thereto.

Mr. DICKERSON, from the Committee on Commerce and Manufactures, to whom the subject was referred, reported a bill for the relief of Alexander Humphrey and Sylvester Humphrey. The bill was read, and passed to the second reading.

The bill supplementary to the several acts for adjusting the claims to land and establishing land offices in the districts east of the island of New Orleans, was read a third time, and passed.

The bill further to continue in force and perpetuate an act passed on the 20th day of April, in the year 1818, entitled "An act supplementary to an act, entitled 'An act to regulate the collection of duties on imports and tonnage,' passed the 2d day of March, 1799," was read the second time.

The bill for the better organization of the district court of the United States, within the State of Louisiana, was read the second time, and referred to the Committee on the Judiciary.

On motion of Mr. RUGGLES, the Committee of Claims were discharged from the further consideration of the petition of Nathaniel Frye, jr., chief clerk in the office of the Paymaster General, who prays to be allowed for extra services, which he rendered in performing the duties of the Paymaster General during the sickness and after the death of the late Mr. Brent.

Mr. MACON presented the memorial of a number of the citizens of North Carolina, praying the removal of floating lights, and the erection of lighthouses. The memorial was read, and referred to the Committee on Commerce and Manufactures.

The Senate took up the bill from the House of Representatives making appropriations for the military service for 1822, and towards the service of 1823, which had been referred to the Committee on Finance, and reported without amendment.

Mr. MACON moved to strike out the clause which appropriates \$75,000 for the purchase of woollens for the army for the year 1823. The motion was opposed by Mr. HOLMES, of Maine, and was supported by the mover; and, on taking the question,

The motion was lost—yeas 8, nays 23.

SENATE.

South American States.

MARCH, 1822.

No other amendment being offered to the bill, it was ordered to a third reading; and, on motion of Mr. LOWRIE, it was forthwith read a third time, by general consent, passed, and returned to the House of Representatives.

Mr. BROWN, of Ohio, presented the petition of Jesse Hunt, of Cincinnati, in Ohio, merchant, and also the petition of J. Remsen Holmes & Co., of Natchez, in the State of Mississippi, merchants, praying that duties paid by them, respectively, on certain goods imported into New Orleans, in the year 1816, and there destroyed by fire, may be remitted. The petitions were severally read, and respectively referred to the Committee on Finance.

The Senate resumed the consideration of the bill for the relief of Ebenezer Stevens and others; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the judicial power of the United States, in all controversies to which a State shall be a party; and the further consideration thereof was postponed until Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill vesting in the respective States the right of the United States to all fines assessed for the non-performance of militia duty during the last war; and the further consideration thereof was postponed until Monday next.

The bill to amend the laws now in force as to the issuing of writs and final process in the courts of the United States, within the State of Tennessee, was taken up in Committee of the Whole, and having been explained, by Mr. WILLIAMS, of Tennessee, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of James Clark; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The engrossed resolution, proposing to the States so to amend the Constitution as to create an uniform mode (by districts) of electing Electors of President and Vice President of the United States and Representatives in Congress, was read a third time, and, on the passage of which, the vote was as follows:

YEAS—Messrs. Barton, Benton, Brown of Louisiana, Brown of Ohio, Chandler, D'Wolf, Dickerson, Eaton, Edwards, Holmes of Maine, Holmes of Mississippi, Johnson of Louisiana, Knight, Lloyd, Macon, Morril, Noble, Otis, Palmer, Parrott, Seymour, Southard, Stokes, Talbot, Taylor, Thomas, Van Dyke, Williams of Mississippi, and Williams of Tennessee—29.

NAYS—Messrs. Barbour, Boardman, Findlay, Gaillard, Lowrie, Mills, Pleasants, Ruggles, Smith, Walker, and Ware—11.

Two-thirds of the votes being in favor of the resolution, it passed, and was sent to the House of Representatives for concurrence.

The resolution introduced by Mr. LANMAN some days ago, authorizing the erection of a tombstone over the grave of the late Mr. Burrill, formerly a Senator from Rhode Island, was taken up; and, being amended, read as follows:

Resolved, That the expense of erecting plain monuments, with suitable inscriptions, over the graves of such members of the Senate as are interred at the city of Washington, be paid out of the contingent fund—provided the expenses of erecting the same shall not, in each case, exceed the sum of one hundred and seventy dollars.

The resolution was ordered to be engrossed and read a third time—yeas 37, nays 3, as follows:

YEAS—Messrs. Barbour, Barton, Benton, Boardman, Brown of Ohio, Chandler, D'Wolf, Dickerson, Eaton, Elliott, Findlay, Gaillard, Holmes of Maine, Holmes of Mississippi, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lanman, Lloyd, Lowrie, Mills, Morril, Otis, Parrott, Pleasants, Ruggles, Seymour, Southard, Stokes, Talbot, Taylor, Thomas, Walker, Ware, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Macon, Noble, and Smith.

SOUTH AMERICAN STATES.

The following Message was received from the PRESIDENT of the United States:

To the Senate of the United States:

In transmitting to the House of Representatives the documents called for by the resolution of that House, of the 30th January, I consider it my duty to invite the attention of Congress to a very important subject, and to communicate the sentiments of the Executive on it, that, should Congress entertain similar sentiments, there may be such co-operation between the two departments of the Government as their respective rights and duties may require.

The revolutionary movement in the Spanish provinces in this hemisphere attracted the attention and excited the sympathy of our fellow-citizens from its commencement. This feeling was natural and honorable to them, from causes which need not be communicated to you. It has been gratifying to all to see the general acquiescence which has been manifested in the policy which the constituted authorities have deemed it proper to pursue in regard to this contest. As soon as the movement assumed such a steady and consistent form as to make the success of the provinces probable, the rights to which they were entitled by the law of nations, as equal parties to a civil war, were extended to them. Each party was permitted to enter our ports with its public and private ships, and to take from them every article which was the subject of commerce with other nations. Our citizens, also, have carried on commerce with both parties, and the Government has protected it, with each, in articles not contraband of war. Through the whole of this contest the United States have remained neutral, and have fulfilled with the utmost impartiality all the obligations incident to that character.

This contest has now reached such a stage, and been attended with such decisive success on the part of the provinces, that it merits the most profound consideration whether their right to the rank of independent nations, with all the advantages incident to it, in their intercourse with the United States, is not complete. Buenos Ayres assumed that rank by a formal declaration in 1816, and has enjoyed it since 1810,

MARCH, 1822.

Amendment to the Constitution.

SENATE.

free from invasion by the parent country. The provinces composing the Republic of Colombia, after having separately declared their independence, were united by a fundamental law of the 17th of December, 1819. A strong Spanish force occupied, at that time, certain parts of the territory within their limits, and waged a destructive war. That force has since been repeatedly defeated, and the whole of it either made prisoners or destroyed, or expelled from the country, with the exception of an inconsiderable portion only, which is blockaded in two fortresses. The provinces on the Pacific have likewise been very successful. Chili declared independence in 1818, and has since enjoyed it undisturbed; and of late, by the assistance of Chili and Buenos Ayres, the revolution has extended to Peru. Of the movement in Mexico our information is less authentic, but it is, nevertheless, distinctly understood, that the new Government has declared its independence, and that there is now no opposition to it there, nor a force to make any. For the last three years the Government of Spain has not sent a single corps of troops to any part of that country; nor is there any reason to believe it will send any in future. Thus, it is manifest, that all those provinces are not only in the full enjoyment of their independence, but, considering the state of the war and other circumstances, that there is not the most remote prospect of their being deprived of it.

When the result of such a contest is manifestly settled, the new Governments have a claim to recognition by other Powers, which ought not to be resisted. Civil wars too often excite feelings which the parties cannot control. The opinion entertained by other Powers as to the result, may assuage those feelings and promote an accommodation between them useful and honorable to both. The delay which has been observed in making a decision on this important subject, will, it is presumed, have afforded an unequivocal proof to Spain, as it must have done to other Powers, of the high respect entertained by the United States for her rights, and of their determination not to interfere with them. The provinces belonging to this hemisphere are our neighbors, and have, successively, as each portion of the country acquired its independence, pressed their recognition by an appeal to facts not to be contested, and which they thought gave them a just title to it. To motives of interest this Government has invariably disclaimed all pretension, being resolved to take no part in the controversy, or other measure in regard to it, which should not merit the sanction of the civilized world. To other claims a just sensibility has been always felt, and frankly acknowledged, but they in themselves could never become an adequate cause of action. It was incumbent on this Government to look to every important fact and circumstance on which a sound opinion could be formed, which has been done. When we regard, then, the great length of time which this war has been prosecuted, the complete success which has attended it in favor of the provinces, the present condition of the parties, and the utter inability of Spain to produce any change in it, we are compelled to conclude that its fate is settled, and that the provinces which have declared their independence, and are in the enjoyment of it, ought to be recognised.

Of the views of the Spanish Government on this subject, no particular information has been recently received. It may be presumed that the successful progress of the revolution, through such a long series

of years, gaining strength, and extending annually in every direction, and embracing, by the late important events, with little exception, all the dominions of Spain south of the United States, on the continent, placing thereby the complete sovereignty over the whole in the hands of the people, will reconcile the parent country to an accommodation with them, on the basis of their unqualified independence. Nor has any authentic information been recently received of the disposition of other Powers respecting it. A sincere desire has been cherished to act in concert with them in the proposed recognition, of which several were some time past duly apprized, but it was understood that they were not prepared for it. The immense space between those Powers, even those which border on the Atlantic, and these provinces, makes the movement an affair of less interest and excitement to them than to us. It is probably, therefore, that they have been less attentive to its progress than we have been. It may be presumed, however, that the late events will dispel all doubt of the result.

In proposing this measure, it is not contemplated to change thereby, in the slightest manner, our friendly relations with either of the parties, but to observe, in all respects, as heretofore, should the war be continued, the most perfect neutrality between them. Of this friendly disposition, an assurance will be given to the Government of Spain, to whom it is presumed it will be, as it ought to be, satisfactory. The measure is proposed, under a thorough conviction that it is in strict accord with the law of nations; that it is just and right as to the parties; and that the United States owe it to their station and character in the world, as well as to their essential interests, to adopt it. Should Congress concur in the view herein presented, they will doubtless see the propriety of making the necessary appropriations for carrying it into effect.

JAMES MONROE.

WASHINGTON, March 8, 1822.

The Message was read, and referred to the Committee on Foreign Relations.

AMENDMENT TO THE CONSTITUTION.

The Senate then, according to the order of the day, took up the resolution introduced by Mr. BARBOUR on the 18th of December, proposing an amendment to the Constitution to prevent the number of members of the House of Representatives from exceeding two hundred.

Mr. B. rose and submitted his reasons for introducing this proposition, and for considering it, in principle, correct and expedient. He concluded by expunging that part of the resolution which proposed the number of 200, that the Senate might first vote on the naked question of the expediency of limiting the number at all—leaving the number blank.

Mr. HOLMES, of Maine, suggested that the sense of the Senate would perhaps be best obtained by taking it on a motion to postpone the resolution indefinitely. This course being assented to by Mr. BARBOUR,

The question was taken on postponing the resolution indefinitely, and decided in the affirmative as follows:

YEAS—Messrs. Boardman, Brown of Louisiana, Brown of Ohio, Chandler, D'Wolf, Findlay, Gaillard, Holmes of Maine, Holmes of Mississippi, Johnson of

SENATE.

Bank of the United States.

MARCH, 1822.

Louisiana, King of New York, Lloyd, Parrott, Pleasants, Ruggles, Smith, Taylor, Thomas, Van Dyke, Walker, Williams of Mississippi, and Williams of Tennessee—22.

NAYS—Messrs. Barbour, Barton, Benton, Elliott, Knight, Lowrie, Macon, Palmer, Seymour, Stokes, and Ware—11.

So the resolution was rejected.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to amend the act, entitled "An act to incorporate the subscribers to the Bank of the United States," together with the motion to recommit the bill, with certain instructions; and, after debate, the Senate adjourned.

TUESDAY, March 12.

Mr. BENTON presented the petition of Thomas Hardeman, of Howard county, in Missouri, praying that his title to a certain tract of land described in the petition may be perfected. The petition was read, and referred to the Committee on Public Lands.

The bill for the relief of Alexander Humphrey and Sylvester Humphrey was read the second time.

Mr. STOKES, from the Committee on the Post Office and Post Roads, to whom the subject was referred, reported a bill for the relief of Thomas W. Bacot. The bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to enable the holders of incomplete French and Spanish titles to lands within that part of the late province of Louisiana which is now comprised within the limits of the State of Missouri, to institute proceedings to try the validity thereof, and to obtain complete titles for the same when found valid; and the further consideration thereof was postponed to, and made the order of the day for, Thursday next.

Mr. HOLMES, of Maine, from the Committee on Finance, made an unfavorable report on the petitions of Jesse Hunt, and of J. Remsen Holmes & Co., praying relief from the duties on goods consumed by fire.

BANK OF THE UNITED STATES.

The Senate then resumed the consideration of the following bill to amend the charter of the Bank of the United States:

Be it enacted, &c., That it shall be lawful for the directors of the Bank of the United States to appoint an agent and register; and that all bills and notes of the said corporation, issued after the first appointment of such agent and register, shall be signed by the agent and countersigned by the register; that such bills and notes shall have the like force and effect as the bills and notes of the said corporation which are now signed by the president and countersigned by the cashier thereof; and that, as often as an agent or register of the said corporation shall be appointed, no note or bill signed by an agent or countersigned by a register, shall be issued until public notice of the appointment of such agent or register shall have been

previously given, for ten days, in two gazettes printed at the City of Washington.

SEC. 2. *And be it further enacted,* That if any president, director, cashier, or other officer, or servant, of the Bank of the United States, or of any of its offices, shall fraudulently convert to his own use any money, bill, note, security for money, evidence of debt, or other effects whatever, belonging to the said Bank, such persons shall, upon due conviction, be punished by imprisonment, not exceeding — years, and by fine, not exceeding — dollars; either, or both, of said punishments, according to the aggravation of the offence.

[When this bill was under consideration, yesterday, a motion was pending, made by Mr. FINDLAY, to recommit the bill with instructions, as heretofore stated. This motion he withdrew; and, in lieu thereof, proposed to amend the bill by adding the following section:

And be it enacted, That so much of the second rule of the eleventh section of the act entitled "An act to incorporate the subscribers to the Bank of the United States" as provides that no director shall hold his office more than three years out of four in succession, and so much of the fourteenth rule as provides that no director of an office of discount and deposit shall hold his office more than three years out of four in succession, be, and the same is hereby repealed.

This amendment was rejected by a large majority.]

On taking up the bill this morning, Mr. TALBOT moved its indefinite postponement.

On this motion and those which followed, a debate took place which occupied the Senate till near four o'clock.

The motion to postpone the bill indefinitely was finally lost by the following vote:

YEAS—Messrs. Brown of Ohio, Chandler, Lanman, Macon, Noble, Ruggles, Smith, Talbot, Taylor, Thomas, and Williams of Tennessee—11.

NAYS—Messrs. Barbour, Barton, Benton, Boardman, D'Wolf, Dickerson, Eaton, Findlay, Gaillard, Holmes of Maine, Holmes of Mississippi, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lloyd, Lowrie, Mills, Morrill, Otis, Parrott, Pleasants, Seymour, Southard, Stokes, Van Dyke, Walker, Ware, and Williams of Mississippi—29.

Mr. PLEASANTS then moved to strike out the 2d section of the bill; and after some debate, this motion was also lost, by the casting vote of the Chairman, (Mr. DICKERSON) the votes being 19 for, and 19 against, the motion.

Mr. EATON moved an amendment to the 2d section, providing that "the court before whom the conviction shall take place, shall have power to enter a judgment against the party for the amount or value of the thing so fraudulently converted," &c.

The question was not taken on this amendment; when the Senate adjourned.

WEDNESDAY, March 13.

Mr. DICKERSON, from the Committee on Commerce and Manufactures, to whom was referred the bill to authorize the building a lighthouse at

MARCH, 1822.

Bank of the United States.

SENATE.

Stonington Point, in the State of Connecticut, reported the same, with amendments; which were read.

On motion, of Mr. TALBOT, fifteen hundred copies of the Message of the President of the United States, recommending the recognition of the independence of the South American provinces, were ordered to be printed for the use of the Senate.

The bill for the relief of Thomas W. Bacot was read the second time.

The Senate proceeded to consider the report of the Committee on Finance, on the petition of Jesse Hunt; and, on motion, by Mr. BROWN, of Ohio, it was laid on the table.

The Senate also proceeded to consider the report of the Committee on Finance, on the petition of J. Remsen Holmes & Co.; and, on motion, by Mr. BROWN, of Ohio, it was laid on the table.

Mr. KING, of Alabama, presented the memorial of Lefebvre Desnoettes, and others, French emigrants in Alabama, engaged in the cultivation of the vine and olive, praying a modification of the condition of their grant. The memorial was read, and referred to the Secretary of the Treasury.

Mr. FINDLAY presented the memorial of the Chamber of Commerce of Philadelphia, praying an appropriation for the purpose of repairing the old and erecting new piers in the Delaware, and erecting a lighthouse on Cape May. The memorial was read, and referred to the Committee on Commerce and Manufactures.

The Senate resumed the bill for the relief of Ebenezer Stevens, and others; and it was laid on the table.

Mr. LANMAN, from the Committee on the District of Columbia, to which was referred the letter from Charles Bulfinch, architect of the Capitol, relative to the appropriation of a committee room for the reception of one of Colonel Trumbull's series of paintings, made a report, which was read.

The Committee on the Judiciary, to which were referred several memorials and petitions on the subject of a bankrupt law, were discharged from the further consideration thereof.

The Senate took up, in Committee of the Whole, the bill for the relief of James H. Clark, (a purser in the Navy, who prays to be allowed, in the settlement of his accounts, credit for a sum of public money, amounting to eight hundred and sixteen dollars, of which he was robbed at Marseilles, in France, in the year 1815.)

A debate of considerable duration followed, on the circumstances and merits of this claim, in which it was opposed by Messrs. SMITH and LANMAN, and was advocated by Messrs. SOUTHARD and VAN DYKE. In the end the bill was reported to the Senate, and was ordered to be engrossed for a third reading.

The Senate then took up the bill to define the maritime jurisdiction of the courts of the United States; and, after adopting some amendments thereto, on the motion of Mr. KING, of New York, the bill was ordered to be engrossed for a third reading.

The engrossed bill to amend the laws now in 17th Con. 1st Sess.—10

force as to the issuing original writs and final process in the Circuit Courts of the United States in the State of Tennessee; and the resolution directing monuments to be placed over the remains of certain deceased Senators, were severally read a third time, passed, and the former sent to the House of Representatives for concurrence.

The bill granting to the city of New Orleans a certain piece of ground therein, passed through a Committee of the Whole, and was ordered to be engrossed for a third reading, by yeas and nays—31 to 5, as follows:

YEAS—Messrs. Barton, Benton, Boardman, Brown of Louisiana, Brown of Ohio, D'Wolf, Dickerson, Eaton, Findlay, Gaillard, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lanman, Lowrie, Mills, Noble, Otis, Pleasants, Ruggles, Seymour, Stokes, Thomas, Van Dyke, Walker, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Chandler, Holmes, Macon, Parrott, and Smith.

Mr. MACON submitted the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of altering the 3d article of the general regulations of the Army, on the subject of brevet rank, so as to make it conform to the 61st section of the Articles of War.

BANK OF THE UNITED STATES.

The Senate then resumed the consideration of the bill to amend the charter of the Bank of the United States—the amendment offered yesterday, by Mr. EATON, being still pending.

After a short debate, in which the amendment was supported by the mover, and was opposed by Messrs. MILLS and HOLMES of Maine, the amendment was negatived.

Mr. WILLIAMS, of Tennessee, offered an amendment to the first section, going to require of the bank to make all its notes, of and under ten dollars, payable at the principal bank or any of the branches.

This proposition was supported by the mover and by Mr. TALBOT, and was opposed by Messrs. OTIS and KING of New York. After an ineffectual attempt by Mr. VAN DYKE to limit the operation of the amendment to five dollar bills, the question was taken on the amendment, and it was agreed to by the following vote:

YEAS—Messrs. Barbour, Barton, Brown of Ohio, Chandler, Elliott, Gaillard, Johnson of Kentucky, King of Alabama, Lanman, Lloyd, Macon, Noble, Palmer, Pleasants, Ruggles, Smith, Talbot, Taylor, Thomas, Walker, Ware, and Williams of Tennessee—22.

NAYS—Messrs. Boardman, D'Wolf, Dickerson, Eaton, Findlay, Holmes of Maine, Holmes of Mississippi, Johnson of Louisiana, King of New York, Knight, Lowrie, Mills, Otis, Parrott, Seymour, Southard, Stokes, Van Dyke, and Williams of Mississippi—19.

Mr. HOLMES, of Maine, then moved an amendment, requiring the bank, within six months, to accept all or relinquish all the provisions of the first section.

Considerable debate ensued on the expediency

SENATE.

Bank of the United States.

MARCH, 1822.

of allowing this option to the bank; but, before the question was taken, the Senate (about 4 o'clock) adjourned.

THURSDAY, March 14.

The Senate proceeded to consider the motion of the 13th instant, for instructing the Committee on Military Affairs to inquire into the expediency of altering the third article of the General Regulations of the Army; and agreed thereto.

The Senate proceeded to consider the report of the Committee on the District of Columbia, to which was referred the letter from Charles Bulfinch, architect of the Capitol, relative to a room to deposit the third painting of the series of national paintings for inspection; and, on motion, by Mr. LOWRIE, it was laid on the table.

BANK OF THE UNITED STATES.

The Senate then resumed the consideration of the bill to amend the charter of the Bank of the United States. Mr. HOLMES having withdrawn the amendment offered by him, and pending yesterday when the Senate adjourned—

Mr. BARBOUR moved to strike out the first section of the bill, amended, as follows:

"That it shall be lawful for the directors of the Bank of the United States to appoint an agent and a register to reside at Philadelphia; and that all bills and notes of the said corporation, issued after the first appointment of such agent and register, shall be signed by the agent, and countersigned by the register; that such bills and notes shall have the like force and effect as the bills and notes of the said corporation which are now signed by the president and countersigned by the cashier thereof; and that, as often as an agent or register of the said corporation shall be appointed, no note or bill signed by an agent or countersigned by a register, shall be issued, until public notice of the appointment of such agent or register shall have been previously given, for ten days, in two gazettes printed at the city of Washington: *Provided, nevertheless,* That all such notes issued by said bank, of and under ten dollars, shall be payable at the principal bank, or at any of the branches of said bank:"

After considerable discussion, the question was taken on the motion to strike out the first section, and was determined in the affirmative—yeas 23, nays 19, as follows:

YEAS—Messrs. Barbour, Benton, Brown of Ohio, Chandler, D'Wolf, Eaton, Holmes of Mississippi, Knight, Lanman, Lloyd, Macon, Mills, Palmer, Parrott, Pleasants, Ruggles, Seymour, Smith, Talbot, Taylor, Thomas, Van Dyke, and Williams of Mississippi.

NAYS—Messrs. Barton, Brown of Louisiana, Dickerson, Edwards, Elliott, Findlay, Holmes of Maine, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Lowrie, Morril, Noble, Southard, Stokes, Walker, Ware, and Williams of Tennessee.

The remaining section was then ordered to be engrossed and read a third time, by yeas and nays—27 to 13, as follows:

YEAS—Messrs. Barbour, Barton, Benton, D'Wolf, Dickerson, Eaton, Edwards, Findlay, Holmes of

Maine, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lloyd, Lowrie, Mills, Parrott, Pleasants, Seymour, Southard, Stokes, Van Dyke, Walker, Ware, and Williams of Mississippi.

NAYS—Messrs. Brown of Ohio, Chandler, Elliott, Lanman, Macon, Noble, Palmer, Ruggles, Smith, Talbot, Taylor, Thomas, Williams of Tennessee.

FRIDAY, March 15.

Mr. WALKER presented the memorial of a number of the inhabitants of the counties of Mobile and Jackson, in the State of Alabama, praying compensation for the capture and plunder of slaves, cattle, provisions, and effects, and for other losses sustained during the late war with Great Britain. The memorial was read, and referred to the Committee of Claims.

Mr. WALKER also presented the petition of Miguel Eslava, a citizen of Mobile, praying the confirmation of his title to certain lands. The petition was read, and referred to the Committee on Public Lands.

The bill for the relief of James H. Clark was read a third time; and, on the question, "Shall this bill pass?" it was determined in the affirmative—yeas 22, nays 19, as follows:

YEAS—Messrs. Barton, D'Wolf, Dickerson, Eaton, Edwards, Gaillard, Johnson of Kentucky, Johnson of Louisiana, King of New York, Lloyd, Mills, Otis, Parrott, Pleasants, Seymour, Southard, Stokes, Talbot, Thomas, Van Dyke, Ware, and Williams of Tennessee.

NAYS—Messrs. Barbour, Benton, Boardman, Brown of Ohio, Chandler, Elliott, Findlay, Holmes of Maine, Holmes of Mississippi, King of Alabama, Knight, Lanman, Lowrie, Macon, Noble, Ruggles, Smith, Walker, and Williams of Mississippi.

The following engrossed bills were severally read a third time, passed, and sent to the House of Representatives for concurrence, viz:

A bill to amend the charter of the Bank of the United States;

A bill supplemental to the act authorizing the disposal of certain lots of public ground in the city of New Orleans, and town of Mobile; and a bill to define admiralty jurisdiction.

Mr. THOMAS, from the Committee on the Public Lands, made an unfavorable report on the petition of John Gilder and others, on behalf of the East Florida Coffee-Land Association (praying for a grant of about 23,000 acres of land, including Key Largo, at Cape Florida, on such terms as Congress might prescribe, for the purpose of erecting a town and establishing a colony for the cultivating of vines, olives, almonds, coffee, cocoa, and cochineal.)

Mr. PARROTT presented a memorial from sundry merchants and ship-owners of Portsmouth, New Hampshire, recommending to Congress an adherence to the restrictive system until the effect intended thereby be produced in the policy of foreign nations; which memorial was ordered to be printed and referred to the Committee on Foreign Relations.

A Message was received from the President of

MARCH, 1822.

Restrictive System.

SENATE.

the United States, transmitting the information requested by a resolution of the Senate of the 29th of January, relative to the number of officers and soldiers of Virginia of the Continental line, in the Revolutionary war, the quantity of land allowed to each, &c.; which Message was read.

A Message was also received from the President of the United States, transmitting a supplemental report from William Lambert, of observations made to ascertain the longitude of the Capitol, and for the establishment of a first meridian for the United States; which Message was read.

The Senate took up a report of the Committee of Claims on the petition of Rebecca Hodgson, (praying payment for a house used for the War Office when the Seat of Government was removed to Washington, which house was destroyed by fire while in the occupation of the Government.) The report was originally unfavorable, and it had been recommitted with instructions to report all the evidence adduced in the case.

Mr. VAN DYKE moved that the report of the Committee of Claims be reversed, and that the committee be instructed to report a bill granting the prayer of the petitioner.

This motion brought on a long debate on the merits of the claim, which were involved in much uncertainty, from the conditions of the lease of the building and the doubtful circumstances attending its destruction. The debate continued until 2 o'clock; when the question being taken on Mr. VAN DYKE's motion, it was agreed to.

RESTRICTIVE SYSTEM.

Mr. KING, of New York, from the Committee on Foreign Relations, to which had been referred a memorial from South Carolina and one from Baltimore, praying a repeal of the restrictions on the West India trade, made a report vindicating at considerable length the expediency and policy of the restrictive system, as regards the trade with the British West Indies, and recommending that the committee be discharged from the further consideration of the subject.

The report is as follows:

The Committee on Foreign Relations, to whom were referred the memorial of R. Appleby and others, of the Colleton district, South Carolina, and the resolutions of the Chamber of Commerce of the city of Baltimore, praying for the repeal of the laws closing the ports of the United States against British vessels employed in the trade between the United States and the British colonies in the West Indies, report:

That, referring to the period between the completion of the Revolution and the adoption of the Constitution, it cannot be doubted that the embarrassments of the agriculture, trade, and navigation of the several States were truly ascribed to the want of power in Congress to make adequate laws for their encouragement and protection; and no motive in favor of the adoption of the Constitution, was more strongly or more generally felt than the opinion that the vesting of power in Congress to regulate trade, would serve to promote the welfare and prosperity of the Union.

The new Government, under the Constitution, very

soon experienced the influence created by the extraordinary changes that were taking place in France, and which, in the sequel, engaged all Europe in arms.

War between the great maritime Powers invariably produces temporary relaxations of their laws respecting the trade and navigation of foreign nations with their respective territories. The suspension of these laws, and especially of such of them as regulated the colonial trade, had the effect of giving to the agriculture, trade, and navigation, of the United States, the advantages which would have been given to them by a system of free trade, that should have for its basis the equal and reciprocal benefits of all nations.

The condition of neutrality that was adopted by the United States during the wars of the French revolution, secured to every commercial nation benefits which a peaceable and industrious people are able to afford during periods of great public calamity; and our example during these wars has served to prove that justice is the most profitable as well as the wisest policy of nations.

Since the establishment of the general peace, some of the maritime nations, notwithstanding the doubts that have been raised in regard to the truth of the former theories of trade, have returned to and resumed their ancient commercial policy; and, in consequence thereof, the United States have, in their own defence, been obliged to resort to the exercise of the powers to regulate trade vested in Congress for the purpose of protecting and cherishing the industry and navigation of the States.

Great moderation has been observed by the United States on this subject, and persevering endeavors have been made to adjust, by treaty, their commercial intercourse with foreign nations, and especially with England.

So far as respects the English territories in Europe and in Asia, the intercourse is arranged by the treaty of 1815; but this treaty contains no provision concerning the navigation and trade between the United States and the English colonies in the West Indies and North America. The value of this branch of trade, and the importance of the navigation employed in the same, have been long understood by both parties, and the actual embarrassment thereof, which now exists, cannot be ascribed to the want of a disposition on the part of the United States to have placed the same on a fair and friendly footing; but it continues to be insisted on by England, that not only the colonial trade, but the trade between the United States and these colonies, ought to be considered and regulated as a monopoly, that foreign nations are bound to respect, and with which they may not interfere.

The act, commonly called the navigation act of England, while it reserves the colonial navigation exclusively to the vessels of England and her colonies, opens the trade between England and foreign nations to the vessels of both, subject to equal and the same regulations.

The colonial, like the coasting trade, has been treated as a monopoly, so long as the same was confined to the navigation between territories of the same nation; but, whenever it may suit the convenience of a nation to open a trade between her colonies and a foreign nation, the claim to treat this trade as a monopoly is without just authority, being contrary to the rights of such foreign nation, which, within its own dominions, must possess authority to make such regulations as may be deemed expedient.

It is an unwarrantable extension of national monopolies, by *ex parte* laws, to attempt to include the navigation of a foreign nation within the rules by which the navigation between portions of the same nation is governed. If this may be done between the colonies and a foreign nation, it may also be done in respect to the navigation between any other portion, or the whole of the territories of such nation and foreign nations.

England allows the importation of lumber and breadstuffs from the United States into the colony of Jamaica, but forbids the same, unless the importation be made in English vessels; she also allows the importation of cotton and tobacco from the United States into England, but with equal right she may forbid the same, unless the importations be made in English vessels. This has not been done in the latter case, and there would be but one sentiment in the United States, should it be attempted; yet, in the former case, this is, and has been the law ever since the date of our independence, and it may, with equal right, be applied to Liverpool as to Jamaica.

After long endurance and fruitless efforts to adjust this question by treaty, Congress, with great unanimity, have passed laws to countervail the restrictions imposed by England upon the intercourse between the United States and her colonies in the West Indies.

England having forbidden the importation of supplies from the United States into the West India colonies in American vessels, the United States in their turn have forbidden the exportation of these supplies in British vessels: the two restrictions have put an end to the direct intercourse, and the trade is carried on indirectly; the supplies for these colonies being carried in American vessels from the United States to the Swedish and Danish Islands, and the produce of the English West Indies being brought in English vessels to the same islands, and there exchanged for the provisions and lumber of the United States. American supplies are also sent in American vessels to the free port of Bermuda, and there sold for cash; and flour in like manner is sent from the United States to the Island of Cuba, as well as to the port of Liverpool, and from these places, carried in English vessels to Jamaica and other English colonies in the West Indies. In this condition of our navigation and trade, our tonnage continues annually to increase, and the value of our exports exceeds that of our imports.

In countries of great extent, and whose productions are various, though the people are generally employed in similar occupations, new regulations may, for a time, affect some portions of the country more than others; but every portion soon accommodates itself to the new regulation, and the advantages and disadvantages are, in a short time, certain to be equalized by the entire freedom with which every branch of industry is prosecuted.

It was on account of this diversity of products, and of the different manner of doing business in the several States, that jealousies formerly existed between them, which defeated every attempt to establish any common regulation of trade under the Confederation—the want of American tonnage sufficient to create the requisite competition in the exports of the country, added to the difficulties of this period.

But as the national tonnage is now fully sufficient for the national exports, and as Congress have offered to all nations a system of entire equality and freedom in the commercial intercourse between them and the

United States, the time has come in which it has been thought to be due to the welfare and character of the United States to countervail the regulations which so long, and so much to our disadvantage, have been imposed by England on the trade and navigation between the United States and her West India colonies.

This national measure, so long called for to protect the ships and seamen of the United States, was calculated to awaken the remnant of local jealousy that may still exist among us, against the influence of which we may with confidence appeal to the character and necessity of the law.

By the exclusion of English vessels, American vessels are employed in their place, and whatever is lost to the former is gained by the latter. By revoking the countervailing laws, we take away the profits now enjoyed by American vessels, and give them back again to the vessels of England, and, in doing so, grant a bounty to foreign ships at the expense of our own.

Navigation and maritime industry, for a peculiar reason, call for national protection: for the art of navigation is an expedient of war, as well as of commerce; and, in this respect, differs from every other branch of industry. Though it was once doubted, doubt no longer exists, that a navy is the best defence of the United States—and this maxim is not more true than that a naval Power never has existed, and can never exist, without a commercial marine; hence, the policy of encouraging and protecting the ships and seamen of the United States.

In the commercial differences which arise between nations, the various branches of industry are differently affected, and calculations, founded on the supposed interest of either party, being often fallacious, may prove to be uncertain guides in the policy of nations, while, by referring every question of disagreement to the honor of the nation, in the purity and preservation of which every one is alike concerned, a standard is provided that can never mislead.

In the least as well as the most difficult disputes, national honor is the safest counsellor—and it should not be forgotten that public injuries long endured invite further aggression, and, in the end, degrade and destroy the pride and safety of nations.

In respect to the commercial difference which has so long existed between the United States and England, the claim of the latter exclusively to regulate the intercourse and navigation between the United States and her West India colonies, has affected the reputation and rights of the United States, and the public honor justifies the countervailing measures adopted on this subject; to recede from the same would be equivalent to their final relinquishment, and would not fail to encourage the belief that a wrong so long endured would no longer be opposed, and that further aggression might be made without resistance.

It must be always remembered, that the countervailing measures which have been adopted by Congress, are entirely defensive; and, as we desire to concur in the establishment of a free trade with every nation, we are ready to abandon the restrictions on the English navigation, as soon as England manifests a disposition to give up the restrictions which she was the first to impose on our navigation—and does public policy require, or will the national honor permit, that we should do so sooner? With these views, the Committee submit the following resolution:

Resolved, That the Committee on Foreign Relations

MARCH, 1822.

Land Titles in Missouri.

SENATE.

be discharged from the further consideration of the petitions of R. Appleby and others, of Colleton District, South Carolina, and of the resolutions of the Chamber of Commerce of Baltimore, praying for the repeal of the laws imposing restrictions on English vessels employed in the trade between the United States and the English colonies in the West Indies.

SATURDAY, March 16.

Mr. RUGGLES, from the Committee of Claims, to which was referred the petition of Richard Woodland, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted.

Mr. SMITH, from the Committee on the Judiciary, to which was referred the bill for the better organization of the district court of the United States within the State of Louisiana, reported the same without amendment.

On motion, by Mr. CHANDLER, permission was granted to the Chaplains of Congress to occupy the Senate Chamber to-morrow, for the purpose of public worship.

MONDAY, March 18.

Mr. THOMAS, from the Committee on Public Lands, to whom was referred the petition of the Mayor and Aldermen of St. Augustine, praying the donation to that city of certain squares and lots in said city, made a report unfavorable thereto; which was read.

Mr. VAN DYKE reported, pursuant to instructions, a bill for the relief of the legal representatives of Joseph Hodgson, deceased.

On motion, by Mr. HOLMES, of Maine, the report of the Committee on Finance, to whom was referred the memorial of Paul Lanusse and F. Bailly Blanchard, merchants, of New Orleans, praying for certificates of debenture on certain goods exported from the port of New Orleans in 1819, was recommitted to the same committee, further to consider and report thereon.

Mr. FINDLAY presented the petition of James Wilson, administrator of the estate of Greenbury H. Murphy, late of Chambersburg, Pennsylvania, a deputy marshal, praying relief in the settlement of his accounts. The petition was read, and referred to the Committee on Military Affairs.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, reported a bill to repeal the fourteenth section of an act "to reduce and fix the Military Peace Establishment," passed the second day of March, 1821. The bill was read and passed to the second reading.

Mr. WALKER presented the petition of John B. Hogan, late paymaster in the Army of the United States, praying certain allowances in the settlement of his accounts. The petition was read, and referred to the Committee of Claims.

Mr. SOUTHARD gave notice that to-morrow he should ask leave to introduce a bill to alter the times and places of holding the district court, in the district of New Jersey.

Mr. JOHNSON, of Kentucky, gave notice that to-morrow he should ask leave to introduce a bill

to establish, on the western waters, a national armory.

Mr. LOWRIE submitted the following resolution, which was read:

Resolved, That the Secretary of the Senate procure, for the use of the Senate, and of the Standing Committees thereof, five copies of Tanner's New American Atlas, at a price not exceeding thirty dollars for each copy, to be paid out of the contingent fund.

Ordered. That it pass to the second reading.

Mr. JOHNSON, of Kentucky, from the Committee on Indian Affairs, to which the subject was referred by a resolution of the Senate of the 11th instant, reported a bill to prevent war among the Indian tribes within the territorial limits of the United States. The bill was read, and passed to the second reading. The bill is as follows:

A bill to prevent war among the Indian tribes within the territorial limits of the United States.

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to take such measures as he may deem expedient and proper to prevent war among the Indian tribes within the limits of the United States, by employing the military force, or otherwise.

The Senate proceeded to consider the report of the Committee on Public Lands, on the memorial of John Gilder, and others; and, on motion, by Mr. THOMAS, it was laid on the table.

The Senate proceeded to consider the report of the Committee of Claims on the petition of Richard Woodland, and, on motion by Mr. HOLMES, of Mississippi, it was laid on the table.

The Senate proceeded to consider the report of the Committee on Foreign Relations, on the subject of restrictions on the English navigation; and, on motion, by Mr. WILLIAMS, of Mississippi, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the judicial power of the United States in all controversies to which a State shall be a party; and, on motion, by Mr. JOHNSON, of Kentucky, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill vesting in the respective States the right of the United States to all fines assessed for the non-performance of militia duty during the last war; and, on motion, by Mr. LOWRIE, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to designate the boundaries of a land district, and for the establishment of a land office, in the State of Indiana; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

LAND TITLES IN MISSOURI.

The Senate resumed, agreeably to the order of the day, the bill to enable the holders of incomplete French and Spanish titles to lands within that part of the late province of Louisiana which is

now comprised within the limits of the State of Missouri, to institute proceedings to try the validity thereof, and to obtain complete titles for the same when found to be valid.

[The bill proposes to make the United States federal court, in the State of Missouri, a tribunal for examining into the validity of these titles, and to confirm them, when found to be valid, to the same extent that they would have been confirmed under the French and Spanish Governments, if their sovereignty had continued over the province of Louisiana.]

Mr. BENTON, in support of the bill, said, that he would undertake to show the mode and terms of conceding lands, under the French and Spanish Governments, in Louisiana; that lands, in point of fact, were there conceded according to this mode, and upon these terms; that many of these concessions were in an incomplete state on the day of the transfer of the province to the United States, but valid on that day against France and Spain, and in consequence valid to the same extent against the United States; that the United States has not yet provided by law for completing these titles, and that it is now her duty to do so.

Mr. B. went on to support the several positions which he had taken.

1. As to the mode and terms. He said that it required the concurrence of two authorities to concede the Crown lands in Spanish America—a local authority which originated the title, and a superior authority which confirmed it. The first was called a sub-delegate, and always resided in the province where the conceded land was situated; the second was for a long time the King, in person, at Madrid. The authority of the sub-delegate extended to three points—making the concession, fixing the terms of it, and ordering the survey. The superior authority issued the patent when the survey was returned, and it entertained appeals in behalf of the subject on every decision made by the sub-delegate.

This continued to be the mode until the year 1754. In that year a royal ordinance was promulgated upon the subject of granting the Crown lands, of the greatest moment to the inhabitants of Spanish America, and which had continued in force ever since. The entire ordinance might now be seen in the Department of State, in a book, entitled "Leyes de la Recopilacion de Indias," and is the eighty-first article, and the one referred to by Morales. It emanated from Ferdinand VI., a prince known to history by the name of Ferdinand the Wise—a title, said Mr. B., above that for which his great grandfather, Louis XIV., had labored so much in vain, and which Ferdinand acquired by putting an end to the wars which had descended upon him with his Crown; by relieving his subjects from their taxes; by reclaiming the banditti from the mountains, and restoring them to the fields; by opening the dungeons of the Inquisition, and turning out the victims; by encouraging agriculture and commerce at home, and extending the care of his parental Government to the people of the New World.

The ordinance recited that experience had shown

the injuries which had resulted to the King and the subject from the necessity of applying at Madrid for the confirmation of land titles; that many had omitted to profit by the royal bounty, because unable to defray the expenses of this application; that those who did apply paid more to get the confirmation than the land itself had cost; that, in consequence, people seated themselves on the Crown lands without titles, and without improving them, because they expected to be denounced and criminally pursued for the trespass;—the effect of all which was, that large districts remained without fixed inhabitants, without cultivation, and without cattle; to the injury of the King's service, and to the prejudice of adjoining provinces.

Such, said Mr. B., were the wise recitals of the ordinance of 1754. The enactments flowed directly from them. They ordained that the confirming as well as the originating authority should be local—the latter continuing to be the sub-delegates, the former being vested in the supreme courts, called Audiences, established by Charles V., in the vice-regal kingdoms of the New World.

But the beneficence of the King did not stop here. There were provinces remote from the seats of the Audiences, or separated from them by the sea—as Yucatan, Carthagen, Puerto Rico, Panama, Cumana, Havana, and others—in which it would be inconvenient to the people to go to the Audiences to obtain patents. In all these, as in others in like circumstances, it was expressly ordained that the governors of the provinces should exercise the same powers, within their province, which the Audiences exercised in the vice-regal kingdoms. These powers extended to the appointment of sub-delegates, to the issuing of patents, and to the revision of the acts of the sub-delegates, by way of appeal; for which purpose the sub-delegate was bound to send up, free of cost, to the party, the circumstances of the case, in the form of a question proposed, (*en consulta*), to the end, as the ordinance declares, that no one should be induced, through fear of expense, to abandon his right.

Mr. B. said that Louisiana was not mentioned in the ordinance of 1754, nor could be, because not ceded to Spain till the year 1762, nor occupied by her until 1769. But, when acquired, she was in equal circumstances with those named, and the ordinance attached to her, and was practised upon by the first Governor, O'Reilly, from the first year of his administration, and by all his successors up to the year 1799, when this branch of his authority was transferred, by a decree of Charles IV., to the Intendants General. Morales was the only Intendant General who undertook to exercise this authority. He published a set of regulations adverse to the interest of the province and to the spirit of the ordinance of 1754, for which he was remonstrated against by the cabildo of New Orleans and dismissed by the King. The Lieutenant Governors of upper Louisiana were sub-delegates, by virtue of their office, both under the Governors-General of Louisiana and the Intendant, Morales, and in that capacity they conceded their lands, fixed the terms of the concession, and ordered the

MARCH, 1822.

Land Titles in Missouri.

SENATE.

survey, from the time that St. Ange, the first Spanish Lieutenant-Governor, arrived at St. Louis, in 1770, until the 10th day of March, 1804, when Don Carlos Delassus, the last of the Lieutenant-Governors, transferred the province to Major Stoddard, the first commandant of upper Louisiana under the authority of the United States.

Mr. B. said that he had now stated the outline of the regular mode of making the ordinary concessions for land in Spanish America. Extraordinary grants commenced differently; they issued directly and in the first instance either from the confirming authority or from the King himself: the sub-delegates seldom originated them; the feeling of subordination being too intense in a despotic government to permit the inferior to venture upon the slightest exercise of a doubtful authority.

Having shown the mode of conceding lands, Mr. B. proceeded to state the terms upon which concessions were made.

He said that the Kings of Spain had acquired the two Americas on cheap terms, and were able to part with their lands in the same way. He had read, in acts of Congress, the expression "*Extinguish Indian titles*," applied to the Spanish government in upper Louisiana. The expression, he said, was borrowed from our own practice, not from theirs. The Spanish Kings held no treaties to extinguish Indian titles; no such thing as a boundary line was established between Spanish and Indian lands. The Pope, Alexander VI., made a free gift of the new world and all its inhabitants to Ferdinand and Isabella, and the swords of Cortez and Pizarro made good the grant. Lands acquired so easily, for a long time had no value, and no one would accept them as a gift, except for the mines of gold or silver which they contained, or for the Indians who lived upon them, and who became slaves.

In the course of one or two centuries, the terms, as well as the mode, of conceding lands, settled down upon fixed principles, and received their latest improvement in the ordinance of 1754.

The concessions were made upon different considerations. First—by sales, properly so called. The Spanish word is "*ventas*," and obviously implies a sale for money. The second, by arrangement or composition. The Spanish word is "*composiciones*," and implies a consideration of some sort; but a consideration opposed to the idea of a *quid pro quo* in money: as public services in a military or civil capacity rendered to the King, or advantages redounding to the benefit of the province, by promoting its population, encouraging the cultivation of the ground, rearing of cattle, opening roads, building mills, exploring mines, &c. The third, by gifts. The Spanish word is, "*Repartimientos*," derived from the verb *repartir*, to divide. The noun, *repartimiento*, is the word used in the early history of Mexico and Peru, and signifies the respective portions of lands, and Indians, and gold and silver mines, which fell to the shares of the first conquerors, when the spoil of the new world was divided out among them. Mr.

B. said he had also been informed that the same word was used in Spain in testamentary devises, and imported the partition which a father makes of his estate among his children. He said that a still stronger word than this was used in the ordinance of 1754, the word "*mercedes*," which signifies "*gracious gifts*." The words of the ordinance are—"He resuelto que en las mercedes, ventas y composiciones de realengos, sitios y valdios, hechas al presente, y que se hicieren en adelante, se observe y pratique precisamente lo contenido en esta instruccion.—El Rey." In English: "I have resolved that, in the gracious gifts, sales and compositions of the royal lands, places, and wastes, heretofore made, and which shall be made hereafter, shall be observed and followed precisely the tenor of this decree.—The King."

Mr. B. apologized to the Senate for going so much at large into these two points. He was induced to do so because he saw an idea prevailing that valuable considerations were necessary to the validity of Spanish concessions. He hoped he had said enough to show that besides a sale for money, the Crown lands of Spain in the New World might be compounded for services or public advantages, and divided gratuitously among the King's subjects, as a father divides his estate among his children, and that these principles extend to the province of Upper Louisiana, now the State of Missouri, and governed the concessions there made, and for the examination and decision of which this bill is intended to provide.

Mr. B. proceeded to show that lands, in point of fact, were actually conceded in Upper Louisiana according to the mode and upon the terms which he had stated.

He read from Stoddard's Sketches of Louisiana, page 245, to prove that the quantity of 1,721,493 arpens (equal to 1,463,333 acres) had been conceded before the transfer of the province, and duly registered under the acts of Congress requiring the registration of incomplete titles; of which 868,771 arpens had been surveyed before the day of the transfer, (10th of March, 1804,) and that 852,722 arpens were unsurveyed on that day. He enforced the remark of the historian, that the quantity was incredibly small considering the magnitude of the province, the number of its population, and the length of time it had been settled.

Mr. B. here exhibited to the Senate a great number of petitions, with the original concessions attached to them. He said that the owners of these concessions had sent them so great a distance, with so much peril of being lost, for the inspection of the members of Congress, and to confront the insinuation of fraud and forgery, which they believed some agent of mischief had made against them. He showed that the concessions had been made by the Lieutenant-Governors in their characters of sub-delegates, who had fixed the terms and conditions in the decree of concession, and ordered the survey. He admitted that none of the Crown lands had been sold for money in Upper Louisiana. He had never heard of such a sale. The considerations were in the way of public services and advantages; as rewarding civil

and military officers for meritorious services, raising wheat and rearing cattle for the supply of the Lower Mississippi, opening lead mines for the supply of the King's armies, and growing hemp for the supply of his ships. But the great consideration was to populate the country, as without people these articles could not be raised, nor the province defended against an enemy. The population of Upper Louisiana had proceeded with the slow pace which has always attended the settlement of an European colony. Though settled so long before Kentucky, as late as the year 1788, Upper Louisiana contained but a few inconsiderable villages, and no more than 6,400 arpens of land (5,440 acres) had been conceded and surveyed in the whole province. Mr. B. took the year 1788, because at that time Kentucky was pouring her produce upon New Orleans, and the Spanish authorities there began naturally to inquire of themselves if they could not procure the same articles from their own province in the neighborhood of Kentucky? The answer was obvious; but it required a statesman of the school of the Sullys and Colberts to accomplish the object. That statesman appeared in the person of the Baron de Carondelet. He held out the powerful inducement of lands to be given without taxes, and a market at New Orleans for all their productions.

In 1796, the reason became stronger for populating this province. It became necessary to defend it. Spain, as the ally of the French Republic, was then at war with England, and their subjects waged against each other throughout the four quarters of the globe "the unprofitable contest" of trying which could do the other the greatest harm. Upper Louisiana was open to invasion from Canada upon the line of Lake Michigan and the Illinois river. It had been so invaded in the year 1780, when Spain, as the ally of the thirteen United States, was obnoxious in all her dominions to the attacks of the English arms. The riflemen of the West then saved St. Louis, and to them the Baron de Carondelet looked again when menaced by the same foe in 1796. Mr. B. stopped a moment to speak of an exploit too little known to history. He said that the British and Indians, to the number of 1,600, appeared before St. Louis in the year 1780. General George Rogers Clark was then upon the American bottom with the conquerors of Vincennes and Kaskaskia. The French of St. Louis sent to invoke his aid. He had but 400 men, and might have declined with honor. He might have said, our numbers are too few, the river is too wide and rapid; you are strangers, and live beyond the confines of my country; you may be in collusion with the enemy to draw me across the Mississippi, and to revenge in Louisiana the defeat of your countrymen in Illinois. But such was not the language of General Clark, nor of the 400 brave men that followed his steps. He or they knew not danger. Knew it not! May their spirits pardon me, said Mr. B., for applying to them such a fourth of July-day expression. They did know danger—were born in its presence, and grew up in its company; and each could say with Cæsar—

"Danger and I are brothers,
Twin lions whelped in one hour,
And I the elder and more terrible."

They were the riflemen of the West, and took counsel, not from danger, but from honor and courage. They divided into two bodies, and marched to the relief of St. Louis. Two hundred presented themselves opposite the town, and two hundred crossed the river below. At the sight of such boldness, the British and Indians, believing them to be the vanguard of a great army, suddenly retired, after killing eighty of the inhabitants, and leaving an impression of terror which still marks that year as an epoch of calamity; "*Pannée du corps*." History, continued Mr. B., tells of the passage of the Rhone and Granicus; but here is the passage of a river unknown to history, yet surpassing the exploit of Hannibal and Alexander as much in heroism and magnanimity as the Father of Floods surpasses in magnitude the puny stream of Gaul and of Asia Minor.

In 1796 the same danger again menaced Upper Louisiana; the Baron de Carondelet looked to the same relief, the riflemen of the West: lands were gratuitously given them, free of taxes, and Kentucky and Tennessee poured their earliest settlers across the Mississippi. The celebrated Colonel Boone went at that time. Emigrants were also drawn from every part of the United States; and not only they, but the European French, flying from the storms of the Revolution, the inhabitants of St. Domingo escaping from massacre and conflagration, the Irish retiring from the calamities of their country, all found refuge in Upper Louisiana, and received gratuitous grants of lands from the Spanish Government. Mr. B. stated that it was at this period (the close of the last century) that Upper Louisiana gained two-thirds of its whole population; it was then that the chief part of the concessions were made; and the United States had repaid the benefit of the Baron de Carondelet's policy; for she purchased the province immediately after, and in the war of 1812 these very people defended Missouri for her against British and Indians, (although the most exposed point in the Union) without the aid of regular troops, without fortifications, and without calling militia draughts and volunteers from the neighboring States. And now these people, in company with the old inhabitants of the country, appear at your bar, and ask you to confirm to them the lands which were conceded to them by the authority of the King of Spain.

Mr. B. proceeded to show, that many of these concessions were incomplete on the day of the transfer of Upper Louisiana to the United States, but valid on that day against France and Spain, and, by consequence, valid to the same extent against the United States.

He stated that all concessions were termed incomplete, even though surveyed, until confirmed by the Governor General or Intendant at New Orleans, and a patent issued by them. He said it might readily be supposed that the greater part of these concessions were incomplete when it is seen that they were made so near the close of the Span-

MARCH, 1822.

Land Titles in Missouri.

SENATE.

ish government; that such was the fact, he read from Stoddart's Sketches, page 245, to show that not one twentieth of the whole quantity were complete. Even in Lower Louisiana, so much longer settled, so much nearer to the confirming authority, he showed that not one-fourth part of the conceded lands were held by complete titles at the time of the transfer of the province.

These incomplete titles were, nevertheless, considered and treated as property by the Spanish laws, and respected as such by the Spanish authorities. In support of this assertion, Mr. B. read from Stoddart's Sketches of Louisiana, page 245, and from a note which he had taken from a document filed by order of Mr. Jefferson, in the Department of State, relative to Louisiana, and which, on the subject of land titles, says: "Perhaps not one-fourth part of the lands granted in Louisiana are held by complete titles. Not a small part is held by occupancy, with a simple verbal permission of a colonial officer. A practice which has been always countenanced by the Spanish Government, in order that poor men, when they found themselves a little at their ease, might, at their own convenience, apply for and obtain complete titles. In the meantime such imperfect rights were suffered by the Government to descend by inheritance, and even to be transferred by private contract."

Mr. B. hoped that these quotations were conclusive on the two points that there were incomplete titles in Upper Louisiana on the day of the transfer of the province, (10th March, 1804,) to the United States, and that these inchoate rights were property in the eye of the Spanish law. These points being established, it followed, of course, that the titles in question were protected by the third article of the treaty of 1803, which secures to the people of Louisiana the free enjoyment of their religion, liberty, and property. He said that the Treaty of San Ildefonso contained an equivalent or stronger stipulation. That treaty had not been published, but its contents, in this particular, were made known officially in the proclamation of the Marquis de Casa Calvo and General Salcedo, Commissioners on the part of His Catholic Majesty for delivering Louisiana to the Commissioners of the French Republic.

Mr. B. proceeded to support his fourth and last proposition—that the United States had not yet provided by law for completing these titles, and that it was her duty now to do so.

The first act of Congress on this subject was passed on the 26th of March, 1804, sixteen days after the change of flags in Upper Louisiana. It declared the concessions and survey made after the Treaty of San Ildefonso, to be null and void; forbid future surveys; and denounced a penalty of fine and imprisonment against any person attempting to survey or to settle on public lands.

The first part of this act was in violation of the laws of nations, which admit the ordinary acts of sovereignty, done in good faith by the sovereign *de facto*, to be good and valid. But it was not necessary to argue the point, because it had been con-

ceded by every subsequent act of Congress, in relation to both Upper and Lower Louisiana.

Several acts of Congress, afterwards passed, establishing boards of commissioners, with authority to confirm small tracts to actual settlers, and one, in 1807, which authorized the confirmation of tracts to the extent of 2,000 arpens, where there had been an actual possession for ten consecutive years. But the act of the most enlarged and liberal provisions, passed in 1814, authorizing the board of commissioners to confirm to the extent of one league square, (7,056 arpens, equal to 6,002 acres,) if conceded and surveyed before the 10th day of March, 1804. This act would nearly have settled the land claims of Missouri, if it had made a provision for the unsurveyed claims. But no provision was made for these, and the penalty against surveying remained in full force. By the laws of Spain no time was limited for making the survey; no forfeiture accrued for not making it within any given time; it was left to the convenience of the party. Mr. B. read various passages from Stoddart's Sketches, in proof of this assertion. He said that no forfeiture had yet accrued under any law of the United States, for not one instant of time had ever been allowed for making surveys; on the contrary, the act of 26th March, 1804, stopped the surveys then in progress, and nullified many already made. The claims now in question were principally of the unsurveyed class, but this class included many actually surveyed before the 10th of March, but not returned to the Surveyor General's office until after that day, and many others, surveyed in the Spring of 1804, before the act against surveying was known in Missouri.

Mr. B. then showed what provision Congress had made for the claims in question. By an act of 1805, they were required to be registered with the recorder of land titles, an office created by Congress, and to pay him twelve-and-a-half cents for every hundred words of the registration. By an act of 1821, every claim so registered, is reserved from public sale, until the decision of Congress shall be made thereon. No decision has yet been made; no law has been passed by virtue of which their validity can be tried. In the mean time, these claims, so far as they have been *de facto*, surveyed or located, are treated as property by the laws of Missouri, under the terms of the treaty of 1803. They are subject to taxation, to be sold on execution, to descend by inheritance, and to be transferred by sale.

Mr. B. expressed an earnest belief that he had made out a clear right to the relief which the bill contemplated. He believed that almost the whole of the claims embraced in it—he would not say every one, for he would not commit himself upon a declaration beyond his knowledge—but he believed that the body of the claims were valid, and such as would have been confirmed by the Spanish authorities without delay, and without expense. The United States, successor as well to the duties as to the rights of Spain, was bound to do the same thing. Eighteen years had elapsed since this duty had accrued; eleven since Congress pledged herself to decide them; four since the Secretary of

the Treasury, under a resolution of the House of Representatives, had reported the same bill, in principle, which is now under discussion; fifty days since the bill had laid upon our tables, and no decision yet. "Hope, deferred," said Mr. B. "maketh the heart sick;" and if the decision of these claims is deferred much longer, the hearts of these claimants must be "sick unto death."

When Mr. B. had concluded—

On motion, by Mr. HOLMES, of Maine, the further consideration of the bill was postponed to, and made the order of the day for, Thursday next.

TUESDAY, March 19.

Mr. RUGGLES, from the Committee of Claims, to which was referred the petition of John S. Larabee, Moses Sheldon, and John Morton, sureties for Walter Sheldon, made a report, accompanied by a resolution, that the prayer of the petitioners ought not to be granted.

Mr. NOBLE, from the Committee on Pensions, to which was referred the petition of Joseph Redman, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition.

Mr. NOBLE, from the same committee, to which was referred the petition of Charles Simpson, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition.

The resolution directing the purchase of five copies of Tanner's New American Atlas was read the second time.

The bill to prevent war among the Indian tribes within the territorial limits of the United States; the bill for the relief of the legal representatives of Joseph Hodgson, deceased; and the bill to repeal the fourteenth section of "An act to reduce and fix the Military Peace Establishment," passed the second day of March, 1821; were severally read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to designate the boundaries of a land district, and for the establishment of a land office, in the State of Indiana; and, on motion, by Mr. THOMAS, it was laid on the table.

The Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of John Donnelson, Thomas Carr, and others; and, on motion, by Mr. EATON, it was laid on the table.

Mr. JOHNSON, of Kentucky, asked and obtained leave to introduce a bill to establish on the Western waters a national armory; and the bill was twice read by unanimous consent, and referred to the Committee on Military Affairs.

The Senate proceeded to consider, as in Committee of the Whole, the bill authorizing the payment of a sum of money to John Gooding and James Williams; and the same having been amended, it was reported to the House; and, the amendment having been concurred in, the bill was ordered to be engrossed and read a third time.

The Senate proceeded to consider the report of the Committee on Public Lands, on the memorial of the Mayor and Aldermen of the city of St.

Augustine; and, in concurrence therewith, resolved that the committee be discharged from the further consideration of this subject.

The Senate proceeded to consider, as in Committee of the Whole, the bill to reward Lieutenant Gregory, his officers and companions; and it was postponed to Monday next.

The Senate proceeded to consider, as in Committee of the Whole, the resolution to compensate Tobias Simpson for services rendered; and, no amendment having been proposed, the PRESIDENT reported it to the House, and it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same;" together with the amendment reported thereto by the Committee on Public Lands; and, the amendment having been agreed to, the PRESIDENT reported the bill to the House amended accordingly, and the amendment was concurred in, and ordered to be engrossed, and the bill read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for paying to the State of Mississippi three per cent. of the net proceeds arising from the sales of the public lands within the same; and, on motion, by Mr. WILLIAMS, of Mississippi, it was laid on the table.

The Senate proceeded to consider, as in Committee of the Whole, the bill to provide for paying to the State of Alabama three per cent. of the net proceeds arising from the sales of public lands within the same; and, on motion, by Mr. THOMAS, it was laid on the table.

The Senate proceeded to consider, as in Committee of the Whole, the bill prescribing the mode of commencing, prosecuting, and deciding controversies between States; and, on motion, by Mr. DICKERSON, it was laid on the table.

The Senate proceeded to consider, as in Committee of the Whole, the bill to abolish the United States trading establishment with the Indian tribes, and to provide for opening the trade to individuals; and Mr. BENTON proposed certain amendments thereto; and the bill was, on his motion, postponed to, and made the order of the day for, Monday next.

The Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of Samuel Walker; and no amendment having been proposed, the PRESIDENT reported the bill to the House, and it was ordered to be engrossed and read a third time.

The Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of William Nott, Stephen Henderson, and Nathaniel Cox, syndics of the creditors of George T. Phillips, late of the city of New Orleans, deceased; and the same having been amended, it was reported to the House accordingly; and, the amend-

MARCH, 1822.

Proceedings.

SENATE.

ment being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate proceeded to consider, as in Committee of the Whole, the bill to authorize the State of Illinois to open a canal through the public lands to connect the Illinois river and Lake Michigan; together with the amendments reported thereto by the Committee on Public Lands; and the amendments having been agreed to, it was reported to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate proceeded to consider, as in Committee of the Whole, the bill granting to the Corporation of the city of Mobile, in the State of Alabama, certain lots of ground in the said city; and, no amendment having been made thereto, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate proceeded to consider, as in Committee of the Whole, the resolution directing the classification and printing of the accounts of the several manufacturing establishments and their manufactures, collected in obedience to the tenth section of the act to provide for taking the fourth census; and, no amendment having been made thereto, it was reported to the House, and passed to a third reading.

Mr. HOLMES, of Maine, submitted the following motion for consideration:

Resolved, That the Committee on Commerce and Manufactures be instructed to inquire into the expediency of erecting a lighthouse and establishing buoys at or near the south coast of Florida.

On motion, by Mr. LOWRIE, one thousand copies of the report of the Committee on Foreign Relations, to which was referred the memorial of R. Appleby and others, of Colleton district, South Carolina; and the resolutions of the Chamber of Commerce of the city of Baltimore; praying for the repeal of the laws closing the ports of the United States against British vessels employed in the trade between the United States and the British colonies in the West Indies, were ordered to be printed for the use of the Senate.

The Senate proceeded to consider, as in Committee of the Whole, the bill granting the right of pre-emption to actual settlers on the public lands in the State of Illinois; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of the heirs and representatives of Alexander Montgomery, together with the amendments reported thereto by the Committee on Public Lands; and, the amendments having been agreed to, it was reported to the Senate accordingly; and, the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of Matthew M'Nair; and, no amendment having been made thereto, it was reported to the Senate, and ordered to be engrossed and read a third time.

The Senate proceeded to consider, as in Committee of the Whole, the bill to establish an additional land office in the State of Illinois; and, on motion, by Mr. THOMAS, it was laid on the table.

The Senate proceeded to consider, as in Committee of the Whole, the bill to continue in force "An act declaring the consent of Congress to acts of the State of South Carolina, authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports; and to acts of the State of Georgia, authorizing the imposition and collection of a duty on the tonnage of vessels in the ports of Savannah and St. Mary's, Mr. MORRIL in the Chair; and, after debate, on motion, by Mr. PARROTT, the further consideration thereof was postponed to, and made the order of the day for, Friday next.

The Senate proceeded to consider, as in Committee of the Whole, the bill granting a tract of land to William Conner and wife, and to their children; and, no amendment having been made thereto, it was reported to the Senate, and ordered to be engrossed and read a third time.

The Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of Samuel H. Walley, and Henry G. Foster; and no amendment having been made thereto, it was reported to the Senate, and ordered to be engrossed and read a third time.

The Senate proceeded to consider, as in Committee of the Whole, the bill, entitled "An act to authorize the reconveyance of a tract of land to the city of New York;" and, no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate proceeded to consider, as in Committee of the Whole, the bill granting a section of the public lands to George Shannon; and the further consideration thereof was postponed until to-morrow.

The Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of Jacob Babbitt; and no amendment having been made thereto, it was reported to the Senate, and ordered to be engrossed and read a third time.

The Senate proceeded to consider, as in Committee of the Whole, the bill to perfect certain locations and sales of public lands in Missouri; and no amendment having been made thereto, it was reported to the Senate.

WEDNESDAY, March 20.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to which was referred the bill to establish on the Western waters a national armory, reported the same without amendment.

Mr. RUGGLES presented the petition of Henry Johnson, of Ohio, praying the donation of a small portion of public land, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

Mr. JOHNSON, of Kentucky, gave notice that to-morrow he should ask leave to introduce a bill for the relief of James Morrison.

The PRESIDENT laid before the Senate a report of the Secretary of the Treasury on the petition, which had been referred to him, of General LeFebvre Desnoettes, and others, French emigrants in Alabama, engaged in the cultivation of the vine and olive, praying a modification of their grant; and the report was read.

The Senate resumed the consideration of the report of the Committee of Claims, unfavorable to the petition of Jumonville de Villier, of Louisiana, praying compensation for losses and damages sustained by him from the operations of the American Army, who cut through the levee and thereby inundated the petitioner's plantation, destroyed his sugar crops, &c., during the invasion of December, 1814, which damages amount, by appraisement, to nineteen thousand two hundred and fifty dollars. The committee are of opinion that this injury done the petitioner was done in the necessary operations of war; that the United States are not liable for individual losses from the cause set forth; and that the prayer of the petitioner ought not to be granted.

Mr. JOHNSON, of Louisiana, moved to reverse this report by striking out the word *not*, and he, and Mr. BROWN of Louisiana, advocated the motion. After a good deal of debate, in which Messrs. BARRON, EATON, KING of New York, HOLMES of Maine, and others, sustained the report of the committee, as justified by usage and propriety, the motion of Mr. JOHNSON of Louisiana was rejected by a large majority, and the report of the committee was concurred in.

Mr. SOUTHARD asked and obtained leave to introduce a bill to alter the times and places of holding the district court in the district of New Jersey. The bill was read, and passed to the second reading.

The bill to authorize the payment of a sum of money to John Gooding and James Williams, was read a third time, and passed.

The amendments to the bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of public lands within the same," was read a third time, as amended, and passed. The title was amended, so as to read "An act to provide for paying to the States of Missouri, Mississippi, and Alabama, three per cent. on the net proceeds arising from the sales of the public lands within the same."

The bill for the relief of William Nott, Stephen Henderson, and Nathaniel Cox, syndics of the creditors of George T. Phillips, late of the city of New Orleans, deceased, was read a third time, and passed.

The bill for the relief of Samuel Walker was read a third time, and passed.

The bill to authorize the State of Illinois to open a canal through the public lands, to connect the Illinois river and Lake Michigan, was read a third time, and passed.

The bill granting to the Corporation of the city of Mobile, in the State of Alabama, certain lots of ground in the said city, was read a third time, and passed.

The bill for the relief of the heirs and representatives of Alexander Montgomery was read a third time, and passed.

The bill for the relief of Matthew McNair was read a third time, and passed.

The bill granting a tract of land to William Conner and wife, and to their children, was read a third time, and passed.

The bill for the relief of Samuel H. Walley and Henry G. Foster, was read a third time, and passed.

The bill for the relief of Jacob Babbitt was read a third time, and passed.

The bill, entitled "An act to authorize the conveyance of a tract of land to the city of New York, was read a third time, and passed."

The resolution directing the classification and printing of the accounts of the several manufacturing establishments, collected in obedience to the tenth section of the act to provide for taking the fourth census, was read a third time, and passed.

The resolution to compensate Tobias Simpson for services rendered, was read a third time, and passed.

Mr. JOHNSON, of Kentucky, submitted the following motion for consideration:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of vesting the Secretary of the Treasury with special authority by law to dispose of the special deposite in the Treasury of the United States, and to liquidate, upon the best terms in his power, with banks and individuals, all debts which he may ascertain to be doubtful.

THURSDAY, March 21.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of Issacher Thorp, Joseph Siddall, and James Thorp, cotton manufacturers and calico printers, of Philadelphia, trading under the firm of Thorp, Siddall & Co., made a report, accompanied by a resolution, that the prayer of the petitioners ought not to be granted.

On motion, by Mr. JOHNSON, of Louisiana, the Committee on Indian Affairs, to whom was referred the Message from the President of the United States, transmitting, pursuant to a resolution of the Senate, information of the annual disposition which has been made of the sum of fifteen thousand dollars appropriated to promote civilization among friendly Indian tribes, were discharged from the further consideration thereof.

The Senate proceeded to consider the motion of the 19th instant, for instructing the Committee on Commerce and Manufactures to inquire into the expediency of erecting a lighthouse and establishing buoys at or near the south coast of Florida, and agreed thereto.

The Senate proceeded to consider the motion of the 20th instant, for instructing the Committee on Finance to inquire into the expediency of vesting the Secretary of the Treasury with special authority to dispose of the special deposite, and to liquidate all debts which he may ascertain to be doubtful, and agreed thereto.

MARCH, 1822.

George Shannon.

SENATE.

The Senate proceeded to consider the report of the Committee on Pensions, to whom was referred the petition of Charles Simpson; and, in concurrence therewith, resolved, that the petitioner have leave to withdraw his petition.

The Senate proceeded to consider the report of the Committee on Pensions, to whom was referred the petition of Joseph Redman; and, in concurrence therewith, resolved, that the petitioner have leave to withdraw his petition.

The Senate resumed the consideration of the bill to perfect certain locations and sales of public lands in Missouri; and, on motion, by Mr. BAR-
TON, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to enable the holders of incomplete French and Spanish titles to lands within that part of the late province of Louisiana which is now comprised within the limits of the State of Missouri, to institute proceedings to try the validity thereof, and to obtain complete titles for the same when found to be valid; and, on motion, by Mr. BARBOUR, the further consideration thereof was postponed to, and made the order of the day for, Monday next.

On motion, by Mr. KING, of Alabama, the report of the Secretary of the Treasury, to whom was referred the petition of Lefebvre Desnoettes, and others, French emigrants in Alabama, engaged in the cultivation of the vine and olive, was referred to the Committee on Public Lands.

The Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of Holden W. Prout, administrator on the estate of Joshua Prout, deceased; and, no amendment having been made thereto, it was reported to the Senate, and ordered to be engrossed and read a third time.

The Senate proceeded to consider, as in Committee of the Whole, the bill to authorize the paving of Pennsylvania avenue; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill confirming the title of the Marquis de Maison Rouge; together with the amendment reported thereto by the Committee on Public Lands; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of Andrew Mitchell; and, no amendment having been made thereto, it was reported to the Senate, and ordered to be engrossed and read a third time.

The Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of Daniel Carroll, of Uddington, and others; and, on motion, by Mr. WILLIAMS, of Tennessee, it was laid on the table.

Mr. JOHNSON, of Kentucky, asked and obtained leave to introduce a bill for the relief of James Morrison; the bill was read, and passed to the second reading.

Mr. BENTON gave notice that to-morrow he should ask leave to introduce a bill to repeal the 13th section of the act, entitled "An act to regu-

late trade and intercourse with Indian tribes, and to preserve peace on the frontiers."

GEORGE SHANNON.

The bill granting to George Shannon (who was wounded while conducting home the Mandan Chief who accompanied Lewis and Clark from their expedition from the Pacific, and is now an invalid, having lost his leg in consequence thereof) a section of six hundred and forty acres of public land, being under consideration—

Mr. TALBOT urged the merits of the petitioner and the equity of the donation, in support of the bill.

Mr. VAN DYKE had no objection to making such provision for the petitioner as he might be entitled to, if voted in the usual mode of granting pensions; but this bill proposed to go a step further, in disposing of the public lands, than had been heretofore adopted; and he could not sanction it. If the petitioner was entitled to more of the public bounty than he now received, he would prefer giving him a further pension in money.

Mr. TALBOT cited several cases of a similar character, in which grants of land had been made to those who had rendered meritorious services.

Mr. NOBLE was unwilling to grant six hundred and forty acres of land to the petitioner in addition to a pension of twelve dollars a month which he had received since 1813; and because the men who accompanied Lewis and Clark were better rewarded than the soldiers who fought the battles of the country. He moved the indefinite postponement of the bill.

Mr. TALBOT replied, and contended that the expedition required as much hardihood and courage as any military service; that this bill was justified by precedent; that the petitioner was entirely disabled, and that he was deserving of this small boon from the public liberality.

Mr. BENTON stated that this application was not made for services rendered in the expedition of Lewis and Clark, but on a distinct service, in which the petitioner had received the wound that disabled him for life. Mr. B. recapitulated the character and circumstances of this service, its importance, &c., to show that the case was not one of an ordinary character; that the donation ought to be granted, and was in no danger of forming an injurious precedent.

Mr. VAN DYKE went at some length into an examination of this case to show that it was one of an ordinary kind, that there was nothing to take it out of the common course, and that it would be inexpedient to pass the bill.

The bill was postponed indefinitely without a division.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to fix the limits of the port of entry and delivery for the district of Philadelphia;" a bill, entitled "An act for the relief of Jonathan N. Bailey;" and, also a bill, entitled "An act granting certain privileges to steamships, and vessels owned by incorporated companies;"

SENATE.

Proceedings.

MARCH, 1822.

in which bills they request the concurrence of the Senate.

The said three bills were read, and severally passed to the second reading.

On motion, by Mr. HOLMES, of Maine, it was agreed to reconsider the vote of the Senate on postponing indefinitely the bill granting a section of the public lands to George Shannon; and, on motion, it was laid on the table.

FRIDAY, March 22.

[Yesterday, after the Senate had concluded the consideration of Executive business—

Mr. R. M. JOHNSON, of Kentucky, rose and stated that official duties had obliged him to transact some business at the public offices, and he was very much surprised to find that the bill granting to George Shannon a section of land, had been taken up in his absence and indefinitely postponed, contrary to the usual course and courtesy of this body, without giving an opportunity to the member who introduced the proposition to vindicate its merits. He had been charged with the memorial of Mr. Shannon, who was a distinguished citizen of Kentucky, who had performed distinguished services to his country, and now asked for a just reward for the personal sacrifices which he had made, and the sufferings which he had endured, for his country. Mr. J. said that Mr. Shannon had served the respectable county of Fayette several years in the Legislature of Kentucky—that, for his age, he was a promising and a distinguished individual, and he could not reconcile it to his feelings that the bill for his relief should be disposed of while he had been attending to official duties elsewhere—that Mr. Shannon was a high-minded honorable man, and had been urged, by his friends, to present to the National Legislature his just claims for consideration—that, independent of his sacrifices and sufferings, his liberal disposition, and his patriotic devotion to his country, had kept him in indigent circumstances with a large growing family to provide for. Mr. J. hoped under these circumstances, that the Senate would reconsider the question, and place it in *statu quo*, that he might, on a proper occasion, present his views to the Senate.

The vote was taken on re-consideration, and carried, and the bill was then laid upon the table.]

The bill, entitled "An act for the relief of Jonathan N. Bailey," was read the second time, and referred to the Committee on Finance.

The bill, entitled "An act to fix the limits of the port of entry and delivery for the district of Philadelphia," was read the second time, and referred to the Committee on Commerce and Manufactures.

The bill, entitled "An act granting certain privileges to steamships and vessels owned by incorporated companies," was read the second time, and referred to the same committee.

The bill to alter the times and places of holding the district court in the district of New Jersey, was read the second time, and referred to the Committee on the Judiciary.

The bill for the relief of James Morrison was read the second time, and referred to the Committee of Claims.

The Senate proceeded to consider the report of the Committee of Claims, on the petition of John S. Larrabee, and others, sureties of Walter Sheldon, district paymaster in the State of Vermont; and it was laid on the table.

The Senate proceeded to consider the report of the same committee, on the petition of Thorp, Siddall & Co., cotton manufacturers and calico printers, of Philadelphia; and it was laid on the table.

The Senate then took up the bill to continue in force an act declaring the assent of Congress to acts of the State of South Carolina, authorizing the City Council of Charleston to impose a duty on the tonnage of vessels from foreign ports; and to acts of the State of Georgia, authorizing a like imposition in the ports of Savannah and St. Mary's; and, after undergoing some amendment, the bill was ordered to be engrossed and read a third time.

The engrossed bills for the relief of Holden W. Prout, and for the relief of Andrew Mitchell, were severally read a third time, passed, and sent to the other House for concurrence.

The Senate resumed the consideration of the report of the Committee on the District of Columbia, relative to a place to deposite the third painting of the series of national paintings for inspection; and it was laid on the table.

Mr. JOHNSON, of Louisiana, presented the petition of Samuel Hodgson, of the city of Philadelphia, who became, in the year 1804, one of the sureties of John Smith, of the State of Ohio, as contractor for supplying with provisions the United States troops on or about the Mississippi, praying the interposition of Congress for relief, in the settlement of said Smith's accounts. The petition was read, and referred to the Committee of Claims.

MONDAY, March 25.

The engrossed bill to continue in force an act declaring the assent of Congress to certain acts of the States of South Carolina and Georgia, authorizing the imposition of a tonnage duty in the ports of Charleston, Savannah, and St. Mary's, was read the third time, passed, and sent to the House of Representatives for concurrence.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act supplemental to an act, entitled 'An act authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile,' with an amendment to the title; in which they request the concurrence of the Senate. They have also passed a bill, entitled "An act for the relief of James May and the representatives of William Macomb;" a bill, entitled "An act for the relief of Gad Worthington;" a bill, entitled "An act for the relief of Solomon Porter, jr.;" a bill, entitled "An act to remit the duties on a sword imported, to be presented to Captain Thos. Macdonough, of the United States' Navy;" and also a bill, entitled "An act for the relief of John

MARCH, 1822.

Indian Factory System.

SENATE.

Anderson," in which bills they request the concurrence of the Senate.

The said five bills were read, and severally passed to the second reading.

The amendment of the House of Representatives to the bill, entitled "An act supplemental to an act, entitled 'An act authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile,'" was read and considered; and, on motion the further consideration thereof was postponed until to-morrow.

The Senate resumed the consideration of the report of the Committee on the District of Columbia relative to a place to deposite the third painting of the series of national paintings for inspection; and it was recommitted to the same committee further to consider and report thereon.

INDIAN FACTORY SYSTEM.

The Senate resumed the consideration of the bill "to abolish the United States trading establishment with the Indian tribes, and to provide for opening the trade to licensed individuals," the question being on agreeing to certain amendments offered by Mr. BENTON to the bill when it was under consideration on Thursday last; which in substance provide for abolishing and bringing to a close the concerns of the present trading establishment, by persons to be specially appointed to that duty by the President of the United States, instead of the present superintendent and factors, as proposed by the bill; or, in other words, to take the winding up of affairs of the establishment out of the hands of the present officers.

Mr. BENTON, of Missouri, in support of the amendment, said, that the factory system grew out of a national calamity, and had been one itself. It grew out of the third article of Mr. Jay's treaty—that article which gave the British the right to navigate the Mississippi, and to trade with Indians within the limits of the United States; privileges to which we have been chiefly indebted for our subsequent Indian wars. The statesmen of that day had their eye to this consequence, and undertook to avert, by policy, the danger which they had incurred by treaty. Trade, they knew, governed all people, civilized or barbarian. They had recourse to trade, therefore, to gain the good will of the Indians, and to counteract the influence of the British. They apprehended that private traders had not capital or strength to accomplish these objects, and national trading houses were resolved upon. The factory system was established, and went into operation simultaneously with the surrender of the Western posts—the Summer of 1796.

The capital first invested was \$150,000, and the annual sum of \$8,000 was appropriated for the pay of the superintendent and factors. These sums were afterwards increased by successive acts of Congress, the former to \$300,000 and the latter to \$19,250; in the whole about \$600,000 has been paid out of the Treasury on these accounts.

The act of 1811 locates the factories. They are to be on the frontiers—in the Indian country—on either side of the Mississippi.

It prescribes the terms of sales. The trade is to be liberal—the prices to be so regulated as to save the capital from diminution.

It defines the duties of the superintendent. He is to purchase and transmit to the factories all the goods intended for the Indian trade—to sell the furs and peltries received from them at different places in the United States at public auction, or otherwise dispose of them as may be most advantageous to the United States. He is to render quarterly returns of his purchases and sales, to the Treasury Department—to give bond in \$20,000 with securities, conditioned for the faithful discharge of his duties, takes an oath to discharge these duties faithfully, and is not to engage in private trade.

It defines the duties of the factors. They are to receive the goods sent them by the superintendent, and dispose of them in trade with the Indian nations—to settle their accounts quarterly at the Treasury—to give bond and security, conditioned for the faithful discharge of their duties—to take an oath to discharge them faithfully, and are not to engage in private trade.

Under this act, nine factories are now in operation, to wit: one in the State of Mississippi, one on the Red river, beyond the Mississippi, one on the Arkansas, two in the State of Missouri, two on the Upper Mississippi, and two on the western shore of Lake Michigan.

Mr. B. admitted that these factories were located as directed by the act; they were all in the West, and upon the Mississippi river, or convenient to it.

He would now look to the practical operation of this system. He would examine, first, the conduct of the superintendent in purchasing goods. Second, the conduct of the factors in selling them. Third, the conduct of the superintendent in selling the furs and peltries received from the factors.

Mr. B. said he would undertake to show that, in the discharge of each of these duties, great abuses had been committed. He might be tedious to the Senate, but he would not be diffuse. The subject required precision, and he would observe it. He would be precise in the allegation of misconduct, and equally so in the application of the proof. He would use no proof which had not the moral force of judicial testimony. He would limit himself to two kinds: First, the written statements of Majors John Biddle, O'Fallon, and Bell, and Mr. R. Crooks; the first three Indian agents, the latter a fur trader; the whole known to him, and known to be gentlemen of truth and honor. Their statements were given verbally to the Indian Committee, in the presence of the superintendent, subject to his cross examination; afterwards reduced to writing by themselves, and again subjected to the examination and remarks of the superintendent. Second, The written statements of the superintendent himself, furnished upon interrogatories submitted by the committee. The whole printed by order of the Senate, and now lying on the tables of the members.

On the first head, the conduct of the superintendent in purchasing goods. Three distinct de-

SENATE.

Indian Factory System.

MARCH, 1822.

scriptions of abuse are alleged against him. 1st. In purchasing goods not adapted to the Indian trade. 2d. In purchasing goods of bad quality. 3d. In purchasing in improper places, and at extravagant prices.

In support of the first specification, Mr. B. read from the printed exhibit marked A, furnished by the superintendent himself, the following descriptions and quantities of goods, purchased at Georgetown, District of Columbia, and transmitted to the factories in the year 1820.

147 yards of silk for - - -	\$116 61
286 yards of vestings for - - -	240 41
316 yards cords and velvets for - - -	210 14
50 pieces Nankins for - - -	53 00
20 pieces Leno muslin for - - -	50 00
24 yards of cambric for - - -	7 50
83 lbs. tea (quality not stated) for - - -	83 00
216 pair of stockings for - - -	79 68
8 gross of Jewsharps for - - -	30 16

Mr. B. stopped at this last item to make a remark. Except this, all that he had read, was too evidently unsuited to the Indian trade, to need the slightest illustration; but this eight gross of Jewsharps might admit of a question. He had not seen them enumerated among articles of Indian commerce in Sir Alexander McKenzie's history of the fur trade, nor could he perceive in what manner they could be used efficaciously in expelling British traders from the Northwestern Territories. But the present superintendent had superadded some objects of a different character; schemes for the amendment of the heads and hearts of the Indians; to improve their moral and intellectual faculties; to draw them from the savage and hunter state, and induct them into the innocent pursuits of civilized life. In the execution of these schemes, the Jewsharps might have their use. They are a musical instrument, and

"Music hath charms to sooth the savage heart."

It had been related of a musician of old, that he even tamed wild beasts, and bent down the tops of trees, and drew a woman out of hell, by the potent charms of music. In modern times it had also been said,

"He that hath not music in his soul,
Is fit for treason, stratagem, and spoil."

Mr. B. said that these instruments did not, in his opinion,

"Discourse very excellent music;"

But that was an affair of taste, and, "*De gustibus non disputandum.*"

They were certainly an innocent instrument, and on that account had been spared where better had been condemned. He alluded to an ordinance of the city of Hartford, against drums and fifes, and which, as he had been told, contained express exception in favor of the Jewsharp.

They were innocent, and on that account precisely adapted to the purposes of the superintendent, in reclaiming the savage from the hunter state. The first state after that, in the road to refined life, is the pastoral, and without music the tawney-colored Corydons and the red-skinned Amaryllises, "*recubans sub tegmine fagi*," upon the

banks of the Missouri and Mississippi, could make no progress in the delightful business of love and sentiment. Even if the factories should be abolished, these harps might not be lost. They might be "hung upon the willows," and Æolus, as he passes by, might discourse upon them melancholy music, "soft and sad," adapted to the vicissitudes of human affairs, the death of the factories, and the loss of that innocent age they were intended to introduce.

Mr. B. resumed the reading of the exhibit.

5,068 lbs. sugar, \$557 48 } Bought at New Orleans.
3,265 lbs. coffee, 979 50 }

And other articles adapted to a common country store, but unknown to the Indian trade.

He said this proved that articles of an improper kind were purchased for the factories in the year 1820; he would now prove that it was an old business, regularly followed up. He read from the printed document.

Major O'Fallon's Statement.—"About four years since, when I was stationed at Prairie du Chien, the factor received what was called soldier or citizen goods, to the amount of several thousand dollars, none of which was intended for the Indian trade; and it was said, and generally believed, to be a private concern."—Page 8.

What, said Mr. B., is the answer of the Superintendent to this serious charge? It is this: "Four years ago Mr. Johnson (factor at Prairie du Chien) called for some lighter articles to be traded with half-breeds; and as is the practice at this office the articles called for by the factor were sent. In this supply was the articles of women's morocco shoes, which cost about seventy-five and eighty-seven and a half cents per pair. If Indians, emerging from their rougher coverings, are desirous of imitating the whites in their exterior appearances, there seems no reason why they should be refused the privilege. The insinuation respecting the object of this supply, and, also, that which is reported by Major O'Fallon, on the ground of the reports in Missouri, Michigan, and Illinois, that the superintendent and factors are growing rich in the service, cannot be considered as entitled to any notice."—*Mr. McKenny's reply*, page 41.

Mr. B. considered such a reply as this equal to a confession of Major O'Fallon's charge. He recurred to Mr. Crook's statement to prove the same charge of sending out unsuitable goods. Mr. C. says:

"The factories have been furnished with goods of a kind not suitable to Indians, unless the committees should be of opinion that men's and women's coarse and fine shoes, worsted and cotton hose, tea, glauher salts, alum, and antibilious pills, are necessary to promote the comfort, or restore the health of the aborigines; or that green silk, fancy ribands, and morocco slippers, are indispensable to eke out the dress of our red sisters. I have it also from a gentleman now in Congress, that the factory at Detroit, in 1800, contained a large assortment of goods, so well adapted to the wants of the white population, that the merchants of the place felt and complained of the competition."—Page 11.

MARCH, 1822.

Indian Factory System.

SENATE.

Mr. B. then turned to the copies of five or six accounts, also printed, and furnished by Mr. C. as a part of his statement, showing that the factor at Prairie du Chien had sold every article above mentioned, and a great many others, to the white people of that place, among others to Dixon, Briscois, and Rolette, all of whom stand publicly charged with carrying arms against the United States during the war, at the head of the Indians.

Mr. B. proceeded to the second head of misconduct in the superintendent, that of purchasing goods of bad quality. He read from Major Biddle's statement: "The quality of the goods in the factory at Green Bay is generally bad; the blankets, and other articles of wool, particularly so."—*Page 1.—Answer to second question.*

"The inefficiency of the system seems to have arisen from the wretched character of the supplies, the high prices at which they have been purchased, and the unreasonable advance which has been put upon them."—*Page 6.—Answer to fourth question.*

Upon this, the Superintendent makes this reply: "It remains for Major Biddle to reconcile to the good sense of the country his answers to the third and fourth questions. In answer to the third, he says: 'The articles, as far as he knows, are suited to the Indian trade.' In his answer to the fourth question, he attributes the failure of Mr. Varnum's business as one of three causes, to the wretched character of the supplies."—*Page 41.*

Mr. B. said that the answers required no reconciliation. The third question was in these words: "Have they (the factories) been furnished with any (goods) of a kind not suited to Indians?" The answer is: "The articles, as far as I know, are suited to the Indian market."—*Page 1.*

Major Biddle spoke of the quality of the articles in one place, and of the kind in another. To undertake to involve him in a contradiction was ridiculous. The Superintendent should have recollected that Major Biddle was not an absent and friendless fur trader, but a gentleman well known to many Senators present, and known as one of a family of brothers, to whom honor, talents, and patriotism, are the common inheritance.

Mr. B. proceeded to read from the printed documents to show the bad quality of the goods sent to the factories.

Major O'Fallon's Statement.—"I have seen in factories, goods, evidently the remnants of old stores; and a few years since, I received from General Clark, who was then superintendent of Indian affairs at St. Louis, a few goods for Indian presents (furnished him by the factory department) the most of which was of such inferior quality, that I was ashamed to offer them to the Indians, and have them still on hand."—*Page 8.*

What says the Superintendent to this?

He says: "I find but little to notice in the statements of this gentleman," (Major O'Fallon,)—*page 41.* He then goes off upon other points, and says not a syllable about sending out these remnants of old stores, too mean to be even offered as presents to the Indians.

Major Bell's Statement.—"In the course of the 17th Con. 1st Sess.—11

expedition, I was at a Cherokee settlement on the Arkansas; at the house of Webber there was a store, and a number of Indians making considerable purchases; inquired of them why they did not trade at the United States factory not far distant, and the reply was, that they could procure all the articles they wanted at this store, at a less price, and of a better quality than at the factory, and were allowed the same prices for their furs and peltries."—*Page 9.*

Mr. Crooks's Statement.—"Blankets and other dry goods (in the factories of the Northwest) generally, have been uniformly twenty-five to fifty per cent. inferior to the corresponding articles supplied by individual adventurers. And the factor at Chicago is also of opinion that remnants, or cut pieces of goods, do not answer quite so well as if they had never been unfolded or subjected to retail operations before they reached him."—*Page 10.*

Mr. B. conceived that this evidence was sufficient to convict the superintendent of sending goods of inferior and bad quality to the factories. He went on to the third point, purchasing goods at improper places, and at extravagant prices. To show this, he had recourse to the exhibit of purchases for the year 1820, furnished by the superintendent, as before stated.

One thousand two hundred and seventy-six pounds shot at twelve and a half cents per pound, one hundred and five dollars, bought at Georgetown, District of Columbia, and sent to the western factories.

This was either British or American shot; the friends of the Superintendent might take hold of which horn of the dilemma they pleased, in either case the purchase was a scandalous abuse. Shot was made in any quantity at Herculeum, thirty miles below St. Louis, at about two cents above the price of lead, which was five cents a pound in the year 1820, and of a quality so superior to the English, that it regularly commanded a cent more in the pound in the New Orleans market. At Herculeum there were towers, not made by the hands of man, but of perpendicular rock, from one to three hundred feet high, on the margin of the Mississippi, from the top of which the melted lead was poured, and taken up in shot at the water's edge, and conveyed in boats wheresoever it was wanted. He said it was from this place that the Western factories should have been supplied. It would have cost but little more than half the Georgetown price, and saved the cost of carriage across the mountains. But it was the system of these times to make the West purchase from the East. During the late war, Mr. B., as lieutenant colonel in the United States Army, had received in Nashville, Tennessee, a consignment of tent-poles and wooden mallets, from Philadelphia. The English had a proverb, "Carry coals to New Castle;" the Spaniards had another, "Carry water to the sea." The Americans may have their's also, "Carry wood to Tennessee." ["Carry lead to Missouri," said a Senator.] Mr. B. said, he would not say "lead." The word in the document was "shot," and he might be met with a contradiction if he used one for the other, the two

SENATE.

Indian Factory System.

MARCH, 1822.

articles being so utterly distinct, that their names could not even be composed of any letter used in spelling the other.

160 kegs of powder at \$961 93, bought at Wilmington, (Delaware,) and at Alexandria.

Mr. B. said, that this article abounded in every part of the West, and it was desirable to know upon what reasons the Superintendent was transporting it from the East. He should have the benefit of his own words:

"I have bought powder in Kentucky, but the factors expressing the disapprobation of the Indians with it; Dupont's has been generally sent, and at less price;"—page 24 of Mr. McK.'s reply.

So it seems that Kentucky powder is too bad for Indians. "Trotter's best" is not good enough for them. It does for the riflemen of the West, but will not do for the Indians! Not only at Trotter's manufactory, but throughout the West, said Mr. B., in every State and Territory, this article is made in the greatest profusion and of the best quality, fit for rifle firing, which requires the quickest and strongest kind, that is to say, the very best. The British never complained during the last war, that Western powder was bad. That notable discovery was left for the Superintendent of Indian trade at Georgetown.

But he says, also, that Dupont's was got at less price. He has not stated the price, nor given precise data for ascertaining it. He does not state the weight of the kegs; but supposing them to be of the ordinary capacity of twenty-five pounds each, and the price will be twenty-four cents per pound. Mr. B. said, that he had understood that "Trotter's best" could be purchased in quantity on the banks of the Ohio for twenty cents. Add transportation and contingencies to Dupont's, and it will cost near thirty cents by the time it arrives at the same point. And so ends the account of the better and cheaper powder sent from the East to the West.

Mr. B. proceeded to another article, lead, 506 lbs. which was purchased at Pittsburg, in 1820, at ten cents the pound, for the lake factories, as the Superintendent says.

Where are those factories?

At Chicago and Green Bay, on the south and west of Lake Michigan.

To which are they nearest, St. Louis or Pittsburg?

To St. Louis.

With which have they the shortest, best, and cheapest transportation?

St. Louis, being water carriage all the way, except the short and easy portage at Chicago.

What was the price of lead at St. Louis at the same time?

Answer. Five cents a pound!

Mr. B. left the conclusions to those who would compare these facts.

He went on to the article of tobacco, of which 1,536 lbs. were purchased at Pittsburg the same year for upwards of seven cents a pound. It might have been had in Kentucky for three cents, State paper; two cents, round silver, if the United States was willing to shave as well as to be

shaved; but, peradventure, Kentucky tobacco, like Kentucky powder, is not good enough for Indians.

Mr. B. then read from the document an account of axes, spades, corn-hoes, drawing-knives, nails, frying-pans, saddles, bridles, candle-wick, spurs, gun-locks, saws, bed-cords, tools, curtain and finger-rings, shoes, kettles, tin-pans, tin-cups, crockery-ware, sad-irons, horse and cow-bells, chisels, augurs, locks, 19,000 yards domestic cottons, &c., bought at Georgetown, at high prices, from a select few, whose names regularly recurred on every page, when the greater part of the same articles could have been purchased at Pittsburg for less price, and entire saving of the land carriage.

He spoke next to this item of the carriage.

The Superintendent, in answer to an interrogatory, stated the minimum cost from Georgetown to St. Louis, at four and one-half cents per pound; the maximum, at nine cents. St. Louis was taken as a central point on the Mississippi, where a transport agent was stationed; and ware-houses kept for the reception of goods, furs, &c., on their transit, and through which a moiety perhaps of the whole quantity annually passed.

Mr. B. was constrained to believe, that the carriage of these goods had cost more than the sum stated. His belief was founded, not upon the document now furnished by the Superintendent, but upon one furnished by him at the last session of Congress, and bound up in volume eleven of the State papers, No. 47.

He opened the book, and showed an exhibit: One column contained a statement of the amount of merchandise sent by the Superintendent to the factories, from the year 1811 to the year 1820, amounting to - - - - \$466,874 The next column showed the cost of transporting the same, amounting to - 110,543 The next column showed the contingencies attending this transportation, (the particulars not stated,) amounting to 20,728

From this document, it would seem that nearly one-third of the value of the goods was consumed, in getting them carried to the places of sale! Mr. B. said he knew that he was tiring the Senate; but it was necessary to be minute and particular. The question was to abolish a system conceived by eminent statesmen for valuable purposes, which had stood for twenty-seven years; and which question, in its progress, involves the conduct of respectable men, not as an object, but as a consequence of the inquiry.

Having finished the examination of the superintendent's purchases, the next inquiry was into the conduct of the factors, in making their sales. In performing this duty, they were bound to sell to the Indians—to sell on liberal terms—to sell so as to save the original stock from being diminished. On each point it is insisted that the law has been constantly and openly violated. On the first point, Major Biddle says, "my impression has always been, that the factories were as open to every applicant as any other store, having seen various persons purchasing small articles there. An outfit of goods was furnished by Mr. Erwin

MARCH, 1822.

Indian Factory System.

SENATE.

factor at Green Bay, to William Morrill, who was licensed by me in September last, to trade on the Fox river."—p. 1.

Major O'Fallon says, "I know very well that they (the factors) have been in the habit of selling to officers, soldiers, and citizens, and in fact to any body, without reserve. Mr. Johnson, factor at Prairie du Chien, has been in the habit of equipping traders without license, and sending them to trade with the Indians, on hunting excursions, unrestrained; and did, in one instance, furnish goods to a Canadian, who was an experienced trader, but at that time considered a most exceptionable character, from the circumstance of his having borne arms against us by the side of the Indians, during the late war."—p. 7.

Mr. Crooks says, "It is within my knowledge that goods have been sold to persons engaged in the fur trade, by the United States factories at Fort Osage, Fort Edwards, Prairie du Chien, Chicago, and Green Bay, more particularly at the first, third, and last, of the places mentioned. And I have every reason to believe it is the constant practice of all the factors to sell the goods to the officers and soldiers of the posts where they are located, and generally to the white and mixed population around them."

Mr. Crooks gives the names of many white persons who bought goods to large amounts from the factories; the largest a Mr. Rouse, who purchased to the amount of \$3,000, from Mr. Erwin, at Green Bay, in the year 1817. The fact of selling the Government goods to others than Indians is clearly proved, and is a direct violation of the letter of the act of Congress, and the policy of Congress in establishing the factories.

Mr. B. went on to the next point, the rate at which these goods were sold.

Major Biddle says, "that he, as agent of the United States, paid 50 per cent."—p. 1.

Major O'Fallon says, "that he and others paid from 40 to 60 per cent. upon the St. Louis prices."—p. 7.

Mr. Crooks says, "they were regulated by no rule. Their rates were capricious, governed by the competition, higher or lower, as that was far off or near at hand, weak or vigorous." (p. 12.) He gives many copies of accounts, signed by factors, in which 66 $\frac{2}{3}$ were regularly charged on wholesale operations; the retail much higher.—Ladies' morocco shoes sold at \$1.50, which the superintendent says, cost 75 and 87 $\frac{1}{2}$ cents, being an advance of about 100 per cent. Tea, the quality and first cost not stated, but supposed to be the same as that sent in 1820, to wit, \$1 a pound; the fair price of which, at the factory, could not have exceeded \$1 12 $\frac{1}{2}$ cents, yet sold there for \$3 50 and \$4 a pound, being an advance of 300 or 400 per cent. Powder sold at 80 cents a pound, which must have cost about 25 cents; advance more than 200 per cent.

Before quitting the conduct of the factors, Mr. B. said, he was bound, in justice, to say, and he said it the more readily, because they were not here to speak for themselves, that, from the manner in which the superintendent had remarked

upon their conduct in selling the Government goods at such high prices, and to others than Indians, excusing some things, admitting some, being silent as to some, that the factors appear to have acted on these points with the knowledge and approbation of their principal.

Mr. B., in pursuing the operations of the factory system, came back to the superintendent, and examined his conduct in the last scene of his duties, that of selling the furs and peltries received from the factors. In doing this, the act of Congress made it his duty to sell at different places in the United States, to sell at auction, or otherwise dispose of these articles as might be most advantageous for the United States.

In execution of this law, the sales had been principally at Georgetown, perhaps the last place in America that any man would think of for a fur market; and many had been made at private contract, which could hardly be considered as the most advantageous way of conducting the sales for the public. And the event proved the fact; for the prices obtained were below the market price.

Mr. B. examined the sales of beaver and of deer skins, made by the Superintendent in 1821. Of the first, the whole quantity received was 1,108 pounds, and sold for \$2,115 02—a fraction less than \$2 a pound. The current price was \$3 at St. Louis. The proportion of Southern beaver must have been great to justify so low an average as \$2. Of deer skins, 124,082 pounds were received and sold for \$24,074 90—a fraction less than twenty cents a pound. The current price at St. Louis was thirty-three cents, and nothing but an excessive proportion of bad skins could have reduced the average of the Superintendent's sales to so low a rate.

A private sale of deer skins within the present year, (1822,) to Korckhaus, of Philadelphia, to the amount of near \$20,000, was also shown, in which the average price was equally low, though a credit of three and five months was given. And a letter was read from Mr. Astor's agent, in New York, complaining of this private sale, in which he had no chance to bid.

Low as was the average of the beaver and deer skins sold in 1821, that price is still to be charged with transportation and contingencies, which must be deducted before the clear gain could be counted. No data for this calculation is furnished in the sales of the last year; but, by having recourse to the exhibit furnished by the Superintendent in 1820, to be seen in volume eleven of the State Papers of that year, it may be ascertained how much these items have amounted to on other sales of the same articles.

The whole amount of furs and peltries sold by the Superintendent, from 1805 to 1809, was	- - - - -	\$474,007
The transportation of the same, for the same period, to N. Orleans and Georgetown, where all the sales were made, was	- - - - -	159,348
The contingent expenses of the same, for the same period, were	- - - - -	39,399

Put these two items together, and it will be seen that the mere expense of getting the public furs and peltries from the factories to the places of selling them, and the expenses of the sale, was near 50 per cent. upon the total value of the articles sold!

Mr. B. said that he must now proceed to the examination of another point, which implicated the Superintendent in the double culpability of practising an imposition upon the Indians and a speculation upon the Government. To feel the force of the facts as they were disclosed, it would be necessary to recollect that the factory goods were the property of the Government, and the factors nothing but trustees in the pay of the public, and having no interest in the goods.

Major Biddle's statement.—"In the bills for articles bought by me, (of the Green Bay factor,) as agent, the original price is stated, to which 50 per cent. is added. I have said that the quality was bad. Convinced of this, and of the high price, I sent to the agent of the American Fur Company, at Mackinac, for a small invoice of goods, to the amount of the money left in my hands after defraying the expenses of the agency. And I have no hesitation in saying that they formed a more acceptable present to the Indians than double the sum paid for them would have procured from the factory."—p. 4, 5.

Major O'Fallon's statement.—"I do not recollect to have been furnished with any thing by the factories on account of Government. But they have sometimes furnished other Indian agents with annuities and Indian presents; and a few years since, when they were permitted to act in the capacity of sub-Indian agents, they gave presents out of the factory goods themselves, which were charged to and paid by the Indian department. A few years since, I received from General Clark, then Superintendent of Indian Affairs at St. Louis, a few goods for Indian presents, (furnished him by the factory department,) the most of which was of such inferior quality that I was ashamed to offer them to the Indians, and have them still on hand."—p. 7, 8.

The Superintendent's answer.—"It has been considered proper, always, when presents were to be made to Indians in the vicinity of the factories, that a service would be rendered by the Government agent to another branch of the Government operations, for him to take, for that purpose, the unsaleable articles of the United States' factory; which, under any circumstances, must, in the course of time, and in any mercantile establishment, accumulate in a greater or less degree."—p. 39.

This answer is an admission of the whole charge. It admits the original high price, the enormous advance, and the miserable quality of these goods. It speaks of presents: that is an aggravation of the offence; it is an abuse of charity: a double abuse; at once an imposition upon the Government and the Indians: and what is the excuse? Why, that one branch of the Government should help another! Call you this help? To make the poor ignorant Indians a sink for the refuse goods of the

factories, and charge the United States the highest price, and an additional advance of 50 per cent. for such miserable trash, the rubbish of Georgetown retail stores? And what has become of the profits?

Mr. B. said that there was no precise data to ascertain the extent of the imposition practised upon the Government and the Indians in this way; but there was data enough to show that the amount was enormous. He turned to the official report of the Superintendent in 1820 vol. 4 of the State Papers, No. 47 of the documents, and showed that, from the year 1811 to 1820, the sum of \$186,098 17, had been paid by the Government to the factory system, for goods received of it for annuities. This was only one branch of the imposition. The presents was another. Their amount could only be guessed at from some facts. In the year 1818, the presents to Indians, in goods, amounted to \$165,611 96, as appeared from document No. 15, in Vol. 11 of the State Papers. How much of this amount came through the factories is not shown, but it must have been large, as the 9th section of the act establishing the factories provides, that "the goods requisite for annuities, treaties, and presents, to the Indian nations at the seat of Government or elsewhere, shall be purchased and transmitted to the proper posts and places, by the Superintendent of Indian Trade, upon the orders from the Department of War, and the accounts rendered to the War Department."—U. S. Laws, vol. 4. p. 342. The section constitutes the Superintendent the Government organ for the purchase and transmission of goods; but does not authorize him, or his factors, to charge 50 per centum either upon annuities or presents, either of good or bad quality. And where are the profits?

Mr. B. returned again to the last document. It showed the total expenditure in the Indian Department for the year 1818, to have been \$559,367 47, of which one item had been stated, another was \$120,250 for presents in money to Indians.

Mr. B. next examined the amount of business done by the factories. He took the year 1821, and the exhibit of the Superintendent, showing the total amount of furs and peltries received from each factor, and the amount for which they were sold.

1. Green Bay.—Sent nothing, and no excuse.
 2. Red River.—Sent nothing, factor dead.
 3. Marais des Cygnes.—Sent nothing, just established.
 4. Fort Edwards. Does something better; sends \$44 worth of beeswax.
 5. Chicago.—Does better still; sends \$329 98 worth of mink, racoon, and muskrat skins.
 6. Osage.—Better still; sends \$1,566 64 worth of skins, being \$444 less than the salary paid by the United States to the factor and sub-factor for their personal attention to this important concern.
- The other three, Prairie du Chien, Choctaw, and Arkansas, sent between them to the amount of about \$30,000. The whole making a miserable display upon the large capital invested, and the annual salaries of \$19,250, paid the Superintendent and his subordinates from the Treasury of the United States.

MARCH, 1822.

Indian Factory System.

SENATE.

To swell this lean exhibit, the Superintendent had sent in the sales made in the beginning of the present year, but had not subtracted any made in the beginning of the last year; and the inquiry addressed to him, was to show "one year's" operation of the system, exhibiting the amount of goods sent to the factories, and the amount of furs and peltries received back from them, each for one year.

Mr. B. said that he had now shown to the Senate, by unimpeachable testimony, the continued and enormous abuses which had been practised by the factories. He would now ask for the benefits resulting from them.

Had it expelled the British traders from the Northern and Western territories? On the contrary they had remained there till the late war, and might have been there yet if the treaty at Ghent had revived the third article of Mr. Jay's treaty.

Did they keep the Indians at peace? So far from it that Fort Wayne, Chicago, and Madison, (the sites of factories,) were the first objects of attack and pillage in the late war.

Do they create respect and attachment for the American Government in the bosoms of the Indians? See *Major O'Fallon's statement*.—"The factory system has no good effect in conciliating the good will of the Indians towards us; on the contrary, it is calculated to give them unfavorable impressions, and alienate them from us, by exhibiting the Government of the United States in the light of a common trader."—p. 8.

Do they prevent the Indians from now going to the British for presents? *Mr. Crooks's statement shows the contrary*.—"Fort Malden and Drummond's Island is the annual resort of Indians who go by the factories to receive presents, even at this day.

Do they protect Indians from the extortions of traders? So far from it they are themselves the greatest extortioners, selling the meanest goods for the highest prices.

Have they reclaimed the Indians from savage habits, and converted them to christianity? Listen to the evidence: *Major O'Fallon*.—"In reclaiming them (the Indians) from savage habits, and converting them to christianity, these establishments have the same effect as individual traders."—p. 8.

Major Biddle.—"The factor has no relation to the Indian whatever, than that of a trader."—page 5.

Major Bell.—"The factory system, used as a means for conciliating the good will of the Indians, or reclaiming them from savage habits, cannot, in my opinion, have any better effect than if the trade was altogether in the hands of licensed traders, subject to proper regulations."—p. 10.

Mr. Crooks.—"Little as I value the factory system, considered as a means of attaching the Indians to the United States, I do think they are, if possible, still less capable of producing religious reformation either in the Indians or any body else. The factories have now degenerated into mere places of trade, to which all colors, descriptions, and denominations of people resort for barter, and bear a much more striking resemblance to com-

mon country stores, than to the public establishment of a benevolent Government. The desperate efforts which the factors make to secure individually their reputations as traders, and jointly to prop the questionable pecuniary credit of the whole system are, in my opinion, but little favorable to that serenity of mind, mildness of disposition, and undeviating conformity to a strictly moral deportment, which we, in civilized society, consider essential qualities in those we trust as our guides "to another and a better world." Even *we* value example as high as precept; with savages the former is most likely to be efficacious. And believing these gentlemen (factors) to be equally fallible with the generality of their brethren in trade, I should imagine they were selected by the superintendent of Indian trade more for their trafficking than apostolic abilities, as the head of that department is too intimately acquainted with the nature of missions among a rude people to have appointed the present incumbents to teach repentance and remission of sins to the children of the wilderness."—p. 16.

Yet this system is vaunted for its moral and religious influence upon the heads and the hearts of the Indians, and many good citizens of the United States have been so far imposed upon as to send petitions here, praying its continuance and an increase of its capital on that account—petitions, which it is believed were made here, and sent out to be signed, and brought back in time to help this precious system to stand the shock of the present attack.

Will the Indians be subjected to greater or less exactions from private traders if the factors are withdrawn?

The whole of the evidence on the table answers in the negative. It states that the supply of goods, by private traders, is now abundant—that the competition is sufficiently keen to reduce all prices to the lowest rate; that the Indians are good judges of the value of their own furs and peltries, and of the goods they buy; and that the number of traders will be increased upon the removal of the factories.

Will wars ensue upon the frontiers if the factors are withdrawn?

It is on this point, said Mr. B., that the pathetic powers of the Superintendent have produced their most moving scenes. Blood and murder, and the pillage of the Indians by merciless traders, are depicted as the result. But what say the witnesses? Hear them—

Major Biddle.—"As it has been conducted, (the factory system,) a useless institution has been kept up for years by plausible statements on paper, and by general declamations about atrocities which were never committed, and horrors to be apprehended, which must have excited the smile of the orator himself."—p. 6.

Major O'Fallon.—"To withdraw the factories, and secure the trade to individual enterprise, under proper regulations, would, in my opinion, be a pleasing circumstance to the Indians of my acquaintance."—p. 8.

Major Bell.—"It is my impression that the In-

dians are not particularly attached to the factory system, and that no great inconvenience would result to them if the factories were withdrawn, as their places would, no doubt, be supplied by traders better calculated to satisfy the Indians."—p. 10.

Mr. Crooks.—"The natives consider the factories of so very little consequence to them that their removal from the country would scarcely be remarked; and, so far from their abolition involving the frontiers in war, I am confident that parting with these ostensible blessings will not create a murmur loud enough to disturb the primeval stillness of the forest."—p. 13.

Mr. B. said, he hoped it was now fully shown to the Senate, by unimpeachable testimony, that the factory system was worse than useless; that every public consideration required it to be immediately abolished, the accounts of all concerned to be settled up and closed; the capital to be returned to the public Treasury, so far as it could be found; the salaries of all its officers to be stopped, and an exhibit of its profit or loss to be shown at the next session of Congress; that the amendment offered by him was intended to accomplish these purposes, and, with that view, was submitted to the consideration of the Senate.

When Mr. B. had concluded—

Mr. JOHNSON, of Louisiana, replied at some length to show the grounds on which the Committee on Indian Affairs had reported the bill submitted to the Senate.

This subject was then postponed until to-morrow.

LAND TITLES IN MISSOURI.

The Senate then resumed the consideration of the bill providing for perfecting valid French and Spanish titles to land in the State of Missouri.

Mr. BARTON spoke at considerable length, in explanation and support of the object and provisions of this bill. Before Mr. B. had concluded his remarks, he yielded to a motion to adjourn, and the Senate adjourned.

TUESDAY, March 26.

Mr. SMITH presented the petition of Elihu Hall Bay and others, praying for a confirmation of certain land titles in the State of Louisiana. The petition was read and referred to the Committee on Public Lands.

Mr. RUGGLES, from the Committee of Claims, to which was referred the bill for the relief of James Morrison, reported the same without amendment.

Mr. DICKERSON, from the Committee on Commerce and Manufactures, to which was referred the bill, entitled "An act to fix the limits of the port of entry and delivery for the district of Philadelphia;" and also the bill, entitled "An act granting certain privileges to steamships and vessels owned by incorporated companies;" reported the same respectively, without amendment.

The bill, entitled "An act for the relief of Gad Worthington;" the bill, entitled "An act for the relief of Solomon Porter, jun.;" and also, the bill, entitled "An act to remit the duties on the sword imported for Captain Thomas Macdonough, of

the United States' Navy;" were severally read the second time, and respectively referred to the Committee on Finance.

The bill, entitled "An act for the relief of James May and the representatives of William Macomb;" and also the bill, entitled "An act for the relief of John Anderson;" were severally read the second time, and respectively referred to the Committee of Claims.

The Senate resumed, as in Committee of the Whole, the consideration of the bill confirming the title of the Marquis de Maison Rouge, together with the amendments reported by the Committee on Public Lands; and, on motion by Mr. SMITH, the further consideration thereof was postponed to, and made the order of the day for, Thursday next.

Mr. HOLMES, of Maine, from the Committee on Finance, to which was recommitted the unfavorable report on the petition of Paul Lanusse and F. B. Blanchard, reported the same again, recommending a rejection of the petition; and the report was read.

Mr. HOLMES, from the Committee on Finance, to which was referred the bill, entitled "An act for the relief of Jonathan N. Bailey," reported the same without amendment.

The Senate resumed the consideration of the amendment of the House of Representatives to the title of the bill, entitled "An act authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile;" and disagreed thereto.

Mr. THOMAS, from the Committee on Public Lands, reported a bill supplementary to the act "to set apart and dispose of certain public lands for the encouragement of the cultivation of the vine and olive;" (a bill granting the prayer of the petition of Lefebvre Desnoettes and others, French emigrants, who contracted for a body of public land in the State of Alabama, who pray that patents may be granted to them, individually, and to any others of the association, as they shall individually comply with the conditions required originally of the whole company.) The bill was read.

The Senate proceeded, as in Committee of the Whole, to the consideration of the bill to provide for the collection of duties on imports and tonnage in Florida, and for other purposes, and the further consideration thereof was postponed until to-morrow.

LAND TITLES IN MISSOURI.

The Senate resumed the unfinished business of yesterday, in Committee of the Whole, being the bill providing for confirming French and Spanish land titles in Missouri.

Mr. BARTON concluded the remarks he commenced yesterday in favor of the bill; the whole of which follows entire.

Mr. BARTON said, the object of this bill is to provide a mode in which a contested claim of property, between the United States as one party, and a portion of our citizens as the other parties, may be submitted to a judicial decision—the only Constitutional determination of mere questions of title to property.

MARCH, 1822.

Land Titles in Missouri.

SENATE.

It is known that a dispute of this kind has existed between the United States and a portion of the citizens of Missouri, for almost one fourth of a century—a dispute originating in land warrants, or concessions, issued by the authorities of France and Spain, during the times they were, respectively, in the actual exercise of the Government of that country.

The general proposition, that a citizen should have a remedy to determine his rights, where the same subject happens to be claimed by both the Government and the individual, appears too obviously just and necessary to require illustration, in any ordinary case. In the termination of this protracted dispute, the State of Missouri herself is materially interested. Those claims are interspersed through a tract of country on the west bank of the Mississippi, extending nearly across the State from north to south, and from forty to sixty miles westward from the river. The disputed character of some of those claims, has had a tendency to drive emigration to distant points of the country, and to throw our population into distant, detached settlements; and has hitherto prevented that tract from being brought into market, peopled, and cultivated.

In noticing the general nature, extent, and actual situation of those claims, at the time when the United States took possession of Upper Louisiana, I shall rely principally upon a work of Major Stoddard, the first civil commandant of the United States in that province, who seems to place those claims upon their true footing. He neither assumes the untenable ground that they are all fraudulent, nor runs to the opposite extreme, by contending that they are all fair; but he treats the land titles of the old inhabitants of the country with candor and impartiality.

From this work,* compared with the records of the country before him, it appears that about 1,700,000 arpens, some twelve or fifteen per cent. less than acres, were the whole quantity of land ceded in Upper Louisiana, Arkansas exclusive; a quantity which he pronounces "by no means exorbitant, when compared with the population of that country." Indeed, two or three claims might be selected in the lower countries, equal to the whole quantity ceded in that part of the upper province, which now forms Missouri.

Of this whole quantity, about nineteen-twentieths were held by "incomplete titles." Either from the poverty of most of the inhabitants; the distance of the confirming authorities from them; the long suspension of that authority by the death of the assessor of finance, and neglect of the Crown to fill the office; or, above all, from the want of a motive or necessity under the existing usages, to expedite their titles, they had lain in that situation, and many of them unsurveyed, for many years. It was even a common business of one commandant to order the surveys of the concessions of his predecessor. All of them were registered, more than half actually surveyed, and

nearly half unsurveyed, at the moment when the flag was changed.

For this there were many reasons; among others, there does not appear to have been any limitation in practice for the completion of the surveys; the inhabitants were not forced to incur the expenses of actual survey, sooner than their convenience or interest prompted. This seems to have been the actual usage among them for a long time.

Towards the close of the Spanish Government, the French inhabitants foresaw, what nature seems to have decreed, that Louisiana must inevitably be annexed to the United States. They foresaw that other men, of other habits, manners, and modes of living, must possess and rule the country; that their own customs, habits, and modes of livelihood, to which they had been used from their infancy, and to which men are naturally attached, almost as much as to the places of their nativity, must be abandoned, and give place to a new order of things. That lands were to become an indispensable property; and their former favorite pursuits of hunting, Indian trade, and navigation of their rivers, were to be superseded by the labors of agriculture. With this prospect, "all those entitled to them, solicited concessions, and obtained them;"* that is to say, all who possessed the requisite qualifications of grantees. It was considered their right to do so, and their motive was justifiable and laudable. They were actuated by the same holy motive that influences the actions of all other men, in making provision for their offspring. Hence the number of concessions made in the latter years of the Government of Spain in Upper Louisiana, compared with those of early years.

It was not contemplated, either by the authorities, or the individuals, that these lands were to be actually occupied soon. The applicants were mostly villagers and wished to remain so. The French do not settle as the people of the United States, scattered over the face of a country, from six to ten miles from a neighbor; passing the greater part of their time with no other human society than that of their own families. They are social beings, and settle in groups and villages, and the lower orders of them, especially, would imagine themselves almost beyond the protection of Heaven, if placed beyond the sound of their village church bell.

In anticipation of such revolution of affairs, about the close of the Spanish government, those who had money or influence procured their surveys, but all could not be accommodated; nor was it material to the validity of their concessions, by the laws, usages, &c., then existing.

With respect to the powers of the subordinate officers in granting, it seems, at least, doubtful whether they had any other limit than the discretion of the confirming tribunals. Stoddard expresses the opinion, that they were discretionary with the Lieutenant Governors; and that the laws

*Stoddard's Louisiana, page 245, and seq.

*Stoddard's Louisiana, page 254.

SENATE.

Land Titles in Missouri.

MARCH, 1822.

of O'Reilly, and regulations of Morales, were never in force in Upper Louisiana.

However those things may be, it is not my present purpose to contend that those claims are either good or bad—the question of their validity, with all the questions of fact, and of national and local law involved, is, in my judgment, the subject of judicial cognizance, in case of contest, and not subjects of petition to the legislative branch of the Government. That frauds may exist is probable; while we have men we shall have some fraud; but, if they exist in Upper Louisiana, they are trivial when compared with those stupendous monuments of fraud, which our own native citizens have erected to their memory under like circumstances.

Such appears to have been the general nature, extent, and situation, of those claims at the transfer of possession in March, 1804. There existed, at that time, an unexpired continuing right, by the laws and usages of that Government, to have made their surveys. It is not doubted that the United States might have limited the exercise of that right, as her welfare required; but that the United States, as successor to Spain, could lawfully destroy the right, by cutting off the means necessary to its enjoyments, is not admitted.

What effect had the cession of the province upon the titles, complete or incomplete, by which the inhabitants held or claimed property? They contend that the principles of national law, independent of any stipulation in the treaty, did secure those titles; and that, at least, all the *bona fide* acts of the former sovereign de facto, while in the actual exercise of the ordinary powers of government, were binding on the United States. Whether the country were acquired by treaty or conquest, the rights of private property are secure.

There was a time, during the late war, in which Great Britain was exercising government over Castine, in Maine, and collected duties of our citizens importing goods there. When the United States resumed the possession and government, the acts of Great Britain were regarded by our judiciary, which decided that we could not compel the importers to pay duties on the same goods. While Great Britain was in possession of Michigan, during the same war, she exercised the ordinary powers of government, and property was affected by her temporary authority; when we resumed possession, our judiciary supported the changes so properly made. Then suppose Louisiana a conquered country—and, if it did not happen, it almost happened. Suppose Virginia had extended her conquests to the Pacific ocean, instead of the left bank of the Mississippi; and that, instead of the unparalleled act of magnanimity and patriotism, of sacrificing to the welfare and perpetuity of this Union, all the fine region north-west of the Ohio, she had conquered and given away all the New World beyond the Mississippi, would not the private rights of property, and the legal means of enjoying them, have continued precisely as they were at the moment of the conquest? But, even the first acts of Congress passed in relation to Louisiana recognise this principle as be-

tween France and Spain, but disregard it as between Spain and the United States, and declare all grants subsequent to the Treaty of San Ildefonso void! However, so soon as the nation had time to reflect, it abandoned that bold ground; and, in the act of the 12th of April, 1814, recognised the true principle of national law, by confirming the acts of Spain down to the 10th of March, 1804. Here Congress concede the principle, but they partially deprived the claimants of its benefit, by assuming an improper and unjust basis of confirmation. The fact of actual survey or location, there assumed as the general criterion of the validity of a claim, is no criterion at all—at least no infallible one. It is a rule indiscriminate in its character, and does not distinguish between valid and invalid concessions. If a concession were good or bad, it was so for causes and facts anterior to the fact of survey or location, and wholly independent of it; it was so for causes coeval and coexistent with the issuing of the concession or warrant itself; it was either good or bad then; and the subsequent location or survey, happening some time after, and dependent on circumstances of personal convenience or personal influence, was wholly immaterial to the intrinsic merits of the concession. This rule was also unjust in its operation, as well on the Government as the individual; unjust to the Government, because it embraced the claims that were most likely to be fraudulent, if any, for none were more likely to be so than several of the larger claims surveyed or located in good time; unjust to the citizen, because it excluded a whole class of unsurveyed warrants, some of them among the older, smaller, and better concessions, for a reason which did not affect their validity under Spain—for not having an actual survey, when the existing laws and usages in force at the change of Government gave him time and opportunity to make his survey; whereas the United States did not allow him a day, but prohibited that act, for want of which they condemned his claim, by that criterion of 1814. That act also limited the quantity confirmed, thereby assuming one question in dispute, whether the concessions were not good for their whole extent, or whether the Lieutenant Governor's powers were restricted to a given quantity of land. To what remedy is a citizen entitled when the same subject of property happens to be claimed by both the powerful Government and the powerless individual, and the Government has gotten the legal title vested in itself? The Constitution of the United States tells him (among other things) that he shall not "be deprived of life, liberty, or property, without due process of law;" and that, in common law proceedings, he shall not lose more than about twenty dollars, without at least the right to a trial of his facts by a jury; but of what avail are mere abstract Constitutional rights, without the correspondent remedies? They lie dormant until brought into practical beneficial operation by the necessary laws. As to both the life and the liberty of a citizen, that legislation has been afforded. If the Government claims either his life or his liberty, it gives him a trial for it; but if it claim his property, and the title be in the

MARCH, 1822.

Land Titles in Missouri.

SENATE.

Government, it "holds fast to what it has got," and tells him to petition—"knock, and it shall be opened." Should he petition, his prayer is referred to some committee, to consider and report thereupon; the committee retire, and are gravely employed in poring over volumes of mere voluntary *ex parte* affidavits, which the humblest justice of the peace in the District of Columbia would not dare to admit in evidence before his inferior tribunal, on pain of being "stricken from the roll," or, at least, of a reversal of his judgment by the appellate tribunal. How many perjuries are committed with impunity in such testimony, (if it deserve the name,) cannot be known. How many essential facts are lost, for want of compulsory means of procuring such *ex parte* affidavits, cannot be ascertained.

It could not have been intended by the framers of our Constitution to impose on Congress the weighty burden of deciding questions of property. Whatever, then, individual capacities may be, as a body of some two or three hundred men, divided into two branches, they are wholly incompetent to the task. Our ancestors, therefore, wisely separated and put far apart the legislative and judicial departments of this Government, and assigned to each its respective duties and powers. They acted with both a motive and an object in so doing. It never could have been their intention to create a parcel of irresponsible political bodies, capable of holding property, but perfectly unanswerable to the citizens claiming it—bodies who could cover themselves in this impenetrable ægis of sovereign irresponsibility, and set the individual at defiance with respect to his rights. As to the general right of petition, Mr. B. contended that it related more particularly to the redress of political grievances and the reform of political abuses, and not to questions of *meum et tuum*, which were made subjects of judicial cognizance, and do not belong to the Legislature, except so far as to provide the proper remedies.

A case of a similar kind occurred in Tennessee. Her constitution provided that suits should be brought against the State in such manner as the Legislature should prescribe. An individual claimed a tract of land, under a warrant issued by North Carolina, while she was to Tennessee what Spain lately was to Louisiana, sovereign *de facto* at least. Tennessee, having acquired the title to the unpatented lands within her limits, charged with the satisfaction of such warrants, disputed the validity of this one, and resorted to that dangerous and arbitrary mode of settling the dispute—an act of Assembly! whereby she virtually declared that the land belonged to the State and not to the individual, and prohibited the officer from issuing a grant. The individual repaired to the Judiciary for a *mandamus*. The court held that this was substantially a dispute between the State and the applicant, and that (that provision of the Constitution not having been brought into operation by a law) the *mandamus* must be denied, and denied it was. This is only an epitome of the kind of dispute so long existing between the United States, as successor to Spain, and the claim-

ants under warrants issued by her officers while in the actual exercise of the government of the country. In both instances the individual has a Constitutional right to a judicial decision; and, in both, the legislative branch of the Government has omitted to provide the requisite remedy as against the Government.

Surely it will not be imputed to Congress, in the face of civilized nations, that they entertain a jealousy of the judicial department of this Government, and therefore will refuse to pass the necessary laws to give full beneficial effect to the Constitutional rights of individuals.

The imaginary indignity of writing "the United States" on paper or parchment, to bring the subject before the Judiciary, cannot be a serious objection; especially as the United States are in the daily practice of doing it against citizens, and, in case of error, suffer themselves to be turned under as defendant in error on the docket.

The Boards of Commissioners, with their limited powers, were good enough for the purposes for which they were created—to ascertain the quantity claimed under Spain and France, and to confirm their plain ones; but they had not power, nor could Congress give power to commissioners, *as such*, to adjudicate conclusively against the individuals. Due process of law belongs to the ordinary judicial tribunals, and not to extraordinary commissions, to make conclusive decisions on questions of property.

What would be the effect of the United States selling out the public lands in Missouri without a final decision on these disputed claims? With respect to the surveyed or located class of them, it would be transferring the lawsuits to the purchasers; for the moment an individual takes the place of the Government he may be sued. And with regard to the unsurveyed class of claims, equally meritorious as the others, it would be availing ourselves of the power of Government, to the prejudice of the individual, and creating a source of endless petition to the legislative branch of this Government.

If there be defects in the details of this bill, they can be easily obviated by amendments; the great object of it is, to give the citizen such remedy, in contests with the Government about property, as that monarchy against which we revolted does give, in some form or other, to the humblest subject of its realms.

It is not material whether it be called a "*monstrans de droit*," or any other name; the remedy is the object. For that remedy the old inhabitants of upper Louisiana appeal, not to the discretion or good feelings of Congress, but to their justice, good faith, and national honor.

Mr. BARTON was followed by Mr. BENTON, on the same side, at considerable length.

Mr. OTIS made some remarks averse to acting on the present bill hastily, but not opposed to affording relief and acting on the subject in such manner as should appear expedient.

The bill was then postponed until Thursday next.

INDIAN FACTORY SYSTEM.

The Senate then resumed the consideration of the bill concerning Indian trade.

Mr. JOHNSON, of Louisiana, continued, at some length, the speech he yesterday commenced in support of the bill, and against the amendments offered by Mr. BENTON.

Mr. JOHNSON, in answer to some remarks of Mr. BENTON concerning the official conduct of the agents employed in conducting the system, said that it was not on the ground that any of those agents had abused the trust reposed in them, that the Committee on Indian Affairs had reported the bill. It was other considerations which, in the opinion of the committee, made it expedient to abolish the factory system, and to provide more effectively for opening trade and intercourse with the Indians by licensed traders. He had examined with attention, he said, the documents connected with the subject, and to which the gentleman from Mississippi had referred, and could perceive in them nothing which showed that the Superintendent of Indian trade, or that the factors, or agents, had not faithfully discharged their duty; that, so far as he was informed, he believed them all to be honest, correct men. He said that he had but a slight personal acquaintance with the Superintendent, but the character of that gentleman here, for integrity, stands high, and that, from the best information he could obtain, he was of opinion that the Superintendent had fulfilled the duties of his office with ability, and perhaps as well as any other man could have performed them.

Mr. J. observed that, in conducting trade and intercourse with numerous tribes of Indians, spread over remote and extensive regions, and whilst there existed a competition between our agents and private traders, it would indeed be surprising if no complaints had been made. But even admitting that there had been some mismanagement in carrying on this complicated trade, he was not willing to impute it to intentional error on the part of our agents.

It is said by the honorable gentleman from Missouri, that great abuses had been committed by the Superintendent in purchasing goods of bad quality, and not adapted to the Indian trade; in making the purchases at improper places, and at extravagant prices; and in the manner of selling the furs and peltries received from the factors. Mr. J. said that some of the gentlemen who were examined before the committee, seemed to think that such abuses had been committed. But, from an examination of all the documents laid before the committee, and from other information which he had received, he was of opinion that the Superintendent had performed his duty with the utmost zeal and integrity. With respect, he said, to the quality of the goods purchased for the factories, there seemed to be a difference of opinion. Governor Cass, of Michigan, in a letter to the Superintendent, dated in August, 1816, says, "I have been much gratified to find the goods sent here for the Indians are well selected; perfect justice has been done. I am informed by persons in the

Indian Department, that such a selection was never sent to this country. In fact, I cannot conceive that they could be better suited to the objects to which they are sent." He said that the factor at Fort Osage, also, speaks favorably of the goods sent to him. It is probable, he remarked, that some of the goods alluded to by the gentlemen who were examined before the committee, were remnants of the old stock on hand. He was informed that a great portion of the goods now in the factories, had been purchased about the close of the late war with England, when goods were exorbitant, and difficult to be had at any price. He believed, at that period, that the price of merchandise was from fifty to one hundred per cent. higher than twelve months subsequent thereto. As to the places at which the goods had been purchased, he considered a matter of no consequence, as it did not appear that they could have been obtained on better terms at any other place. Nor does it appear, he observed, that the furs and peltries received of the factors, could have been disposed of to more advantage. The act of 1811, makes it the duty of the Superintendent, under the direction of the President of the United States, and upon such terms and conditions as he should prescribe, to cause the furs and peltry, and other articles acquired in trade with the Indian nations, to be sold at public auction, in different parts of the United States, or otherwise disposed of, as may be deemed most advantageous to the United States.

Mr. J. said that, with respect to the complaints of the goods furnished the factors not being adapted to the Indian trade, he believed that the Superintendent had generally consulted the different factors as to the description of the goods which would suit the taste of the Indians with whom they had intercourse, and had furnished such articles as they called for.

Mr. J. said, that he would now notice some of the charges against the factors. It is insisted, that they have constantly and openly violated the law in selling goods to white people, and in selling to the Indians at extravagant prices. But, it appeared that it was within the instructions of the factors, to dispose of to white people, such articles as might accumulate on hand, which were not saleable to the Indians, and he did not doubt the power of the President to give such instructions; if no such authority existed, it would readily be perceived that the interest of the United States would suffer. That of a large amount of goods, however well selected for Indian trade, many articles might remain on hand, which would not sell to Indians. And, from the difficulty of supplying the wants of our troops stationed on the frontier, the factors had been instructed to furnish to the officers and soldiers, from their factories, such articles as might be required. The factors, in some instances had been further instructed, as he was informed, to send out merchandise for the supply of the Indians, by persons employed as private traders, on account of the Government. This policy had been adopted at the request of the Indians, and for the purpose of extending every reasonable assistance to the In-

MARCH, 1822.

Indian Factory System.

SENATE.

dians within our limits, which could not go to the factories.

Mr. J. said, that, as to the prices of the goods furnished the Indians, it is provided by the act of Congress establishing trading-houses with the Indian tribes, "that the prices of goods supplied to, and paid for by, the Indians, should be regulated in such manner, that the capital stock, furnished by the United States, shall not be diminished." Some articles, he said, might bear but little, whilst others would bear a high profit. The factors are compelled to regulate the prices of the goods sold, so as not to diminish the capital vested.

Upon the whole, he was of opinion, that the conduct of the superintendent and factors, in relation to the different subjects upon which the gentleman from Missouri had commented, might be satisfactorily explained, without implicating the character of any of them. These gentlemen, he remarked, had no personal interest whatever in the Indian trade; they were absolutely prohibited from being, in any manner, personally concerned in carrying it on. They act, he said, under the obligations of an oath, and have given bond, with security, for the faithful performance of their duty. They act, too, under the instruction of the Government, and are compelled to render an account, quarter yearly, of all money, goods, and other property, which come into their hands, or for which they ought to account. Thus, it will be perceived, that the superintendent and factors have acted under high responsibilities, and that the Government has had every opportunity of judging of the propriety of their conduct, and it is to be presumed, that if any of them had violated their duty, they would have been removed from office.

Thus much, in relation to the official conduct of the officers alluded to, he thought it his duty as a member of the committee which had examined the subject, to state to the Senate.

Mr. KING, of New York, spoke on the same side, and in reply to Mr. BENTON's remarks of yesterday.

Mr. LOWRIE, of Pennsylvania, said that, for several years he had been seeking information on the factory system, that he had carefully examined the voluminous documents the Senate had ordered to be printed on the subject. He had come to the full conviction that the factory system had not answered the purpose intended by its establishment. This conviction, however, said Mr. L., has not been produced in my mind by the reasons which seem to operate with the gentleman from Missouri (Mr. BENTON.) His remarks go more to show the abuses of the system, and, indeed, frauds of the superintendent and factors, than to any defect in the system itself. My view of the subject is the reverse of this. I think it would not be difficult to show that all the transactions, so ably commented on by the gentleman from Missouri, (Mr. BENTON,) could have happened in the absence of every thing involving fraud or official misconduct on the part of these officers. They are not here to answer for or defend themselves, and the evidence before us is not sufficient, in my judgment, to condemn them. Placed in

these circumstances, their former good characters ought to go for something. The factors are first nominated by the President, and then have to pass the ordeal of this body. I do not know any of them personally, and with the Superintendent my acquaintance is not of long standing. The official intercourse I had with him, during two years that I was a member of the Committee on Indian Affairs, gave me a good opportunity of knowing him. It is but justice to him to state, that I consider him an able and a faithful officer, and, what is of as much esteem with me, an honest and an upright man.

My objection to the continuance of this trade goes against the system itself. In the first place, the capital is entirely inadequate for the object. On this point I have not data to speak with precision, but, to supply the whole of the Indian trade, I apprehend that ten times the amount now invested would be necessary. This alone would be conclusive against the system. The present capital is found difficult to manage. The Indian border, where this trade is carried on, extends over several thousand miles. In such an extended market, the purchase of articles suitable for the wants, real or imaginary, the wishes and the caprices, of the various tribes; the transportation, care, and sale, of the furs and peltries, involve such a complication of circumstances, that it is impossible for the Government to conduct the concern to advantage. All these difficulties exist with the present investment, and all these difficulties would increase with the enlargement of the capital. Nothing but individual enterprise, individual industry and attention, is equal to such a business. Indeed, I dislike the idea of this Government becoming a trader, and coming, as they must come, in competition with private traders. This Government, like the Government of every free country, requires a great deal of machinery to keep it in motion. Let the public functionaries be limited to those objects which must be attended to. Leave the Indian trade to individuals. If it wants regulations, let those regulations be made. The wisdom of Congress is certainly sufficient for this purpose. I never knew much advantage result to any Government from becoming traders, speculating in funds, or even holding bank stock. In every competition, individual interest is always too sharp-sighted, where the Government is a party.

Still, if I believed this trade to be of advantage to these poor Indians, no consideration of loss, on our part, would induce me to withdraw it from them. But advantage to them, while you supply so small a part of their trade, is out of the question. Open a trade, under proper regulations and restrictions, and the Indians will be better supplied, and on better terms. Competition, the great regulator of the trading community, will, of itself, be found sufficient.

As to the detail of the bill, I prefer the sections reported by the committee. I think the factors should be permitted to close this business, and, to prevent loss, a reasonable time should be allowed. Either plan, however, will answer the purpose. It is satisfactory to find such a unanimity of sen-

timent in the Senate on the propriety of withdrawing these establishments.

Mr. RICHARD M. JOHNSON, of Kentucky, said, he was willing that the factory system should be abolished, but not upon the ground that the superintendent, or the factors or sub-factors, had acted unfaithfully; nor upon the ground that the system had cost us some money; nor upon the ground that the system had been useless. He had examined all of the documents, and was present when honorable and intelligent men were examined, and no act of fraud or infidelity in the subordinate agents had been proven; that he was a stranger to the factors and sub-factors, with the exception of one or two persons, and therefore could say nothing of his own knowledge—but he was extremely happy to find, from the examination of witnesses, &c., they appeared to him as faithful agents in discharge of the trust reposed in them. As to the Superintendent, he had been acquainted with him for many years, and he had always considered him a man of great respectability, and had sustained a high character for integrity as well as capacity. That, as to the expense of the factory system, he would remark, that the object was to accommodate and civilize the savages of the wilderness, and this nation was under the most solemn obligation of morality to do every thing in its power to rescue the natives of our country from total annihilation, and to extend to them all the comforts which was in our power, having a due regard to the great interests of the country. These were the objects of those distinguished patriots and statesmen who had originated the factory system, which had existed for upwards of twenty-five years he believed. But he was willing to wind up this system, because a great diversity of sentiment existed as to its utility, and doubts entertained by many whether it was the best mode to pursue to attain the great objects of retaining our influence over the Indians, and in extending to them the benefits of civilized life.

He was convinced, also, that, even if the factory system was best, yet that Congress had not such confidence in the system as to give it all the efficiency and all the perfection which the organization could receive. These considerations, and a desire to meet the wishes and the views of others, would induce him to vote to abolish the system. But he wished some other system, well organized, to be brought forward as a substitute, that the experiment might be made of such other system. The committee had proposed to rely upon a well regulated trade, by granting licenses to private traders, under proper conditions and regulations, and he had concurred in this course. It was impossible for him to say what would be the result in winding up the factory system. He, for one, did not expect the principal fund would be realized, and that arising from the great difficulties of managing such a system under the present organization. He said he did not intend to say any thing on this subject, and what had been said by other gentlemen would supersede any further observations from him.

The bill was then laid over until to-morrow.

WEDNESDAY, March 27.

On motion, by Mr. LANMAN, the Committee on the District of Columbia, to which was recommended the report of said committee, relating to the appropriation of a room for the third painting of Colonel Trumbull, were discharged from the further consideration thereof.

The bill supplementary to an act, entitled "An act to set apart and dispose of certain lands for the encouragement of the cultivation of the vine and olive," was read the second time.

On motion, by Mr. LANMAN, a committee of three members were appointed, to join such committee as may be appointed by the House of Representatives, to confer upon the subject of such disposal as may be suitable, of the national paintings executed by Colonel Trumbull, and report thereon; and Messrs. LANMAN, DICKERSON, and D'WOLF, were appointed the committee on the part of the Senate.

The Senate proceeded to consider the report of the Committee on Finance, to which was recommended the petition of Paul Lanusse and F. Bailly Blanchard, together with the additional evidence; and, on motion by Mr. JOHNSON, of Louisiana, it was laid on the table.

The Senate took up, as in Committee of the Whole, the bill to provide for the collection of duties on imports and tonnage in Florida, and for other purposes; and spent some time in reviewing and maturing its details; after which the bill and amendments were reported to the Senate; and then, to give time to have the amendments printed, the bill was postponed until to-morrow.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to the acts to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war;" in which bill they request the concurrence of the Senate; they concur in the amendments of the Senate to the bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same," with an amendment; they have also passed the bill which originated in the Senate, entitled "An act for the establishment of a Territorial government in Florida," with amendments; in which said amendments to the two last mentioned bills, they request the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to the bill last mentioned, and concurred therein.

The bill last brought up for concurrence was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to reward Lieutenant Gregory, his officers, and companions; and, on motion by Mr. PARROTT, laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill granting the right of pre-emption to actual settlers on the public lands in the State of Illinois; and the further consideration thereof was postponed until Monday next.

MARCH, 1822.

Fortifications.

SENATE.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the paving of Pennsylvania avenue; and the further consideration thereof was postponed until Monday next.

The amendment of the other House to the bill granting to the States of Missouri, Alabama, and Mississippi, three per cent. of the net proceeds of the sales of public lands therein, was taken up. The amendment proposes that before any part of the three per cent. be paid to those States, the amount due to Georgia and the Yazoo claimants, under the Yazoo compromise, (about \$5,500,000,) shall be first deducted therefrom.

Mr. WALKER, of Alabama, observed, that if he understood the amendment correctly, on merely hearing it read, it would violate the compact between Alabama and the General Government, because the fund out of which her dividend was to be paid, could not rightfully be diminished by such deduction; but to give him time to examine the subject more critically, he moved that the amendment be postponed until to-morrow; which motion was agreed to.

FORTIFICATIONS.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States :

Congress having suspended the appropriation at the last session, for the fortification of Dauphin Island, in consequence of a doubt which was entertained of the propriety of that position, the further prosecution of the work was suspended, and an order given, as intimated in the Message of the 3d of December, to the Board of Engineers and Naval Commissioners, to examine that part of the coast, and particularly that position, as also the position at Mobile Point, with which it is connected, and to report their opinion thereon, which has been done, and which report is herewith communicated.

By this report, it appears to be still the opinion of the Board, that the construction of works at both these positions is of great importance to the defence of New Orleans, and of all that portion of our Union which is connected with, and dependent on, the Mississippi, and on the other waters which empty into the Gulf of Mexico, between that river and Cape Florida. That the subject may be fully before Congress, I transmit, also, a copy of the former report of the Board, being that on which the work was undertaken, and has been, in part executed. Approving, as I do, the opinion of the Board, I consider it my duty to state the reasons on which I adopted the first report, especially, as they were in part suggested by the occurrences of the late war.

The policy which induced Congress to decide on and provide for the defence of the coast immediately after the war, was founded on the marked events of that interesting epoch. The vast body of men which it was found necessary to call into the field, through the whole extent of our maritime frontier, and the number who perished by exposure, with the immense expenditure of money and waste of property which followed, were to be traced in an eminent degree to the defenceless condition of the coast. It was to mitigate these evils, in future wars, and even for the

higher purpose of preventing war itself, that the decision was formed to make the coast, so far as it might be practicable, impregnable, and that the measures necessary to that great object have been pursued with so much zeal since.

It is known that no part of our Union is more exposed to invasion by the numerous avenues leading to it; or more defenceless by the thinness of the neighboring population; or offers a greater temptation to invasion, either as a permanent acquisition, or as a prize to the cupidity of grasping invaders, from the immense amount of produce deposited there, than the city of New Orleans. It is known, also, that the seizure of no part of our Union could affect so deeply and vitally the immediate interests of so many States, and of so many of our fellow-citizens, comprising all that extensive territory, and numerous population, which are connected with, and dependent on, the Mississippi, as the seizure of that city. Strong works well posted were therefore deemed absolutely necessary for its protection.

It is not, however, by the Mississippi only, or the waters which communicate directly with, or approach nearest to, New Orleans, that the town is assailable. It will be recollected that, in the late war, the public solicitude was excited, not so much by the danger which menaced it in those directions, as by the apprehension that, while a feint might be made there, the main force, landing either in the Bay of Mobile, or other waters between that bay and the Rigolets, would be thrown above the town, in the rear of the army which had been collected there for its defence. Full confidence was entertained, that that gallant army, led by the gallant and able chief who commanded it, would repel any attack to which it might be exposed in front. But, had such a force been thrown above the town, and a position taken on the banks of the river, the disadvantage to which our troops would have been subjected, attacked in front and rear, as they might have been, may easily be conceived. As their supplies would have been cut off, they could not long have remained in the city, and withdrawing from it, it must have fallen immediately into the hands of the force below. In ascending the river to attack the force above, the attack must have been made to great disadvantage, since it must have been on such ground, and at such time, as the enemy preferred. These considerations show, that defences, other than such as are immediately connected with the city, are of great importance to its safety.

An attempt to seize New Orleans, and the lower part of the Mississippi, will be made only by a great Power, or a combination of several Powers, with a strong naval and land force, the latter of which must be brought in transports which may sail in shallow water. If the defences around New Orleans are well posted, and of sufficient strength to repel any attack which may be made on them, the city can be assailed only by a land force, which must pass in the direction above suggested, between the Rigolets and the Bay of Mobile. It becomes, therefore, an object of high importance to present such an obstacle to such an attempt as would defeat it should it be made. Fortifications are useful for the defence of posts; to prevent the approach to cities, and the passage of rivers; but as works, their effect cannot be felt beyond the reach of their cannon. They are formidable in other respects, by the body of men within them, which may be removed and applied to other purposes.

Between the Rigolets and the Bay of Mobile, there is a chain of islands, at the extremity of which is Dauphin Island, which forms, with Mobile Point, from which it is distant about $3\frac{1}{2}$ miles, the entrance into the Bay of Mobile, which leads through that part of the State of Alabama to the towns of Mobile and Blakeley. The distance between Dauphin Island and the Rigolets, is 90 miles. The principal islands between them are Massacre, Horn, Ship, and Cat Island, near to which, there is anchorage for large ships of war. The first object is, to prevent the landing of any force, for the purposes above stated, between the Rigolets and the Bay of Mobile; the second, to defeat that force in case it should be landed. When the distance from one point to the other is considered, it is believed that it would be impossible to establish works so near to each other, as to prevent the landing of such a force. Its defeat, therefore, should be effectually provided for. If the arrangement should be such as to make that result evident, it ought to be fairly concluded, that the attempt would not be made, and thus we should accomplish, in the best mode possible, and with the least expense, the complete security of this important part of our Union, the great object of our system of defence for the whole.

There are some other views of this subject, which, it is thought, will merit particular attention, in deciding the point in question. Not being able to establish a chain of posts, at least for the present, along the whole coast, from the Rigolets to Dauphin Island, or off all the islands between them, at which point shall we begin? Should an attack on the city be anticipated, it cannot be doubted that an adequate force would immediately be ordered there for its defence. If the enemy should despair of making an impression on the works near the town, it may be presumed that they would promptly decide to make the attempt in the manner, and in the line above suggested, between the Rigolets and the Bay of Mobile. It will be obvious that the nearer the fortification is erected to the Rigolets, with a view to this object, should it be on Cat or Ship Island for example, the wider would the passage be left open between that work and the Bay of Mobile, for such an enterprise. The main army being drawn to New Orleans, would be ready to meet such an attempt near the Rigolets, or at any other point not distant from the city. It is probable, therefore, that the enemy, profiting of a fair wind, would make his attempt at the greatest distance compatible with his object, from that point and at the Bay of Mobile, should there not be works there of sufficient strength to prevent it. Should, however, strong works be erected there, such as were sufficient not only for their own defence against any attack which might be made on them, but to hold a force connected with that, which might be drawn from the neighboring country, capable of co-operating with the force at the city, and which would doubtless be ordered to those works in the event of war; it would be dangerous for the invading force to land anywhere between the Rigolets and the Bay of Mobile, and to pass towards the Mississippi above the city, lest such a body might be thrown in its rear as to cut off its retreat. These considerations show the great advantage of establishing, at the mouth of the Bay of Mobile, very strong works, such as would be adequate to all the purposes suggested.

If fortifications were necessary only to protect our country and cities against the entry of ships of war

into our bays and rivers, they would be of little use for the defence of New Orleans, since that city cannot be approached so near, either by the Mississippi or in any other direction, by such vessels, for them to make an attack on it. In the Gulf, within our limits west of Florida, which have been acquired since these works were decided on and commenced, there is no bay or river, into which large ships of war can enter. As a defence, therefore, against an attack from such vessels, extensive works would be altogether unnecessary, either at Mobile Point or at Dauphin Island, since sloops of war, only, can navigate the deepest channel. But it is not for that purpose alone that these works are intended. It is to provide also against a formidable invasion, both by land and sea, the object of which may be, to shake the foundation of our system. Should such small works be erected, and such an invasion take place, they would be sure to fall at once into the hands of the invaders, and to be turned against us.

Whether the acquisition of Florida may be considered as affording an inducement to make any change in the position or strength of these works, is a circumstance which also merits attention. From the view which I have taken of the subject, I am of opinion that it should not. The defence of New Orleans, and of the river Mississippi, against a powerful invasion, being one of the great objects of such extensive works, that object would be essentially abandoned, if they should be established eastward of the Bay of Mobile, since the force to be collected in them would be placed at too great a distance to allow the co-operation necessary for those purposes, between it and that at the city. In addition to which, it may be observed, that, by carrying them to Pensacola, or further to the east, that bay would fall immediately, in case of such invasion, into the hands of the enemy, whereby such co-operation would be rendered utterly impossible, and the State of Alabama would also be left wholly unprotected.

With a view to such formidable invasion, of which we should never lose sight, and of the great objects to which it would be directed, I think that very strong works at some point within the Gulf of Mexico will be found indispensable. I think, also, that those works ought to be established at the Bay of Mobile, one at Mobile Point, and the other on Dauphin Island, whereby the enemy would be excluded, and the command of that bay, with all the advantages attending it, be secured to ourselves. In the case of such invasion, it will, it is presumed, be deemed necessary to collect, at some point, other than at New Orleans, a strong force, capable of moving in any direction, and affording aid to any part which may be attacked, and, in my judgment, no position presents so many advantages, as a point of rendezvous for such force, as the mouth of that bay. The fortification at the Rigolets will defend the entrance by one passage into Lake Pontchartrain, and, also, into Pearl river, which empties into the Gulf at that point. Between the Rigolets and Mobile Bay, there are but two inlets which deserve the name, those of St. Louis and Pascagoula, the entrance into which is too shallow even for the smallest vessels; and from the Rigolets to Mobile Bay, the whole coast is equally shallow, affording the depth of a few feet of water only. Cat Island, which is nearest the Rigolets, is about seven and a half miles distant from the coast, and thirty from the Rigolets. Ship Island is distant about ten miles from Cat Island and twelve from the coast. Between these islands and the coast, the water is very shallow. As to the precise depth of

MARCH, 1822.

Fortifications.

SENATE.

water in approaching those islands from the Gulf, the report of the Topographical Engineers not having yet been received, it is impossible to speak with precision, but admitting it to be such as for frigates, and even ships-of-the-line to enter, the anchorage at both is unsafe, being much exposed to northwest winds. Along the coast, therefore, there is no motive for such strong works on our part; no town to guard; no inlet into the country to defend; and if placed on the islands, and the entrance to them is such as to admit large ships of war, distant as they are from the coast, it would be more easy for the enemy to assail them with effect.

The position, however, at Mobile Bay, is essentially different. That bay takes its name from the Mobile river, which is formed by the junction of the Alabama and Tombigbee, which extend, each, about 300 miles into the interior, approaching, at their headwaters, near the Tennessee river. If the enemy possessed its mouth, and fortified Mobile Point and Dauphin Island, being superior at sea, it would be very difficult for us to dispossess him of either, even of Mobile Point; and holding that position, Pensacola would soon fall, as, without incurring great expense in the construction of works there, it would present but a feeble resistance to a strong force in its rear. If we had a work at Mobile Point only, the enemy might take Dauphin Island, which would afford him great aid in attacking the Point, and enable him, even should we succeed in repelling the attack, to render us great mischief there, and throughout the whole Gulf. In every view which can be taken of the subject, it appears indispensable for us to command the entrance into Mobile Bay, and that decision being taken, I think the considerations which favor the occupation of Dauphin Island, by a strong work, are conclusive. It is proper to observe, that, after the repulse before New Orleans, in the late war, the British forces took possession of Dauphin Island, and held it till the peace. Under neither of the reports of the Board of Engineers and Naval Commissioners could any but sloops of war enter the bay, or the anchorage between Dauphin and Pelican Islands. Both reports give to that anchorage eighteen feet at low water, and twenty and a half at high. The only difference between them consists in this: that, in the first, a bar, leading to the anchorage, reducing the depth of water to twelve feet at low tide, was omitted. In neither case could frigates enter, though sloops of war of larger size might. The whole scope, however, of this reasoning turns on a different principle—on the works necessary to defend that bay, and, by means thereof, New Orleans, the Mississippi, and all the surrounding country, against a powerful invasion both by land and sea, and not on the precise depth of water in any of the approaches to the bay or to the island.

The reasoning which is applicable to the works near New Orleans, and at the bay of Mobile, is equally so, in certain respects, to those which are to be erected for the defence of all the bays and rivers along the other parts of the coast. All those works are also erected on a greater scale than would be necessary for the sole purpose of preventing the passage of our inlets, by large ships of war. They are, in most instances, formed for defence, against a more powerful invasion, both by land and sea. There are, however, some differences between the works which are deemed necessary in the Gulf, and those in other parts of our Union, founded on the peculiar situation of that part of the coast. The vast extent of the Mississippi, the

great outlet and channel of commerce for so many States, all of which may be affected by the seizure of that city, or of any part of the river, to a great extent above it, is one of those striking peculiarities which require particular provision. The thinness of the population near the city, making it necessary that the force requisite for its defence should be called from distant parts, and States, is another. The danger which the army assembled at New Orleans would be exposed to, of being cut off in case the enemy should throw a force on the river above it, from the difficulty of ascending the river to attack it, and of making a retreat in any other direction, is a third. For an attack on the city of New Orleans, Mobile Bay, or any part of the intermediate coast, ships of war would be necessary, only, as a convoy to protect the transports against a naval force on their passage, and on their approach to the shore, for the landing of the men, and on their return home, in case they should be repulsed.

On the important subject of our defences generally, I think proper to observe, that the system was adopted immediately after the late war, by Congress, on great consideration, and a thorough knowledge of the effects of that war; by the enormous expense attending it; by the waste of life, of property, and by the general distress of the country. The amount of debt incurred in that war, and due at its conclusion, without taking into the estimate other losses, having been heretofore communicated, need not now be repeated. The interest of the debt thus incurred is four times more than the sum necessary by annual appropriations, for the completion of our whole system of defence, land and naval, to the extent provided for, and within the time specified. When that system shall be completed, the expense of construction will cease, and our expenditures be proportionally diminished. Should another war occur before it is completed, the experience of the last marks in characters too strong to be mistaken, its inevitable consequences; and should such war occur, and find us unprepared for it, what will be our justification to the enlightened body whom we represent for not having completed these defences? That this system should not have been adopted before the late war cannot be a cause of surprise to any one, because all might wish to avoid every expense, the necessity of which might be, in any degree, doubtful. But with the experience of that war before us, it is thought there is no cause for hesitation. Will the completion of these works, and the augmentation of our navy, to the point contemplated by law, require the imposition of onerous burdens on our fellow-citizens, such as they cannot, or will not bear? Have such, or any burdens been imposed, to advance the system to its present state? It is known that no burdens whatever have been imposed; on the contrary, that all the direct or internal taxes have been long repealed, and none paid but those which are indirect and voluntary, such as are imposed on articles imported from foreign countries, most of which are luxuries, and on the vessels employed in the transportation—taxes, which some of our most enlightened citizens think ought to be imposed on many of the articles, for the encouragement of our manufactures, even if the revenue derived from them could be dispensed with. It is known, also, that, in all other respects, our condition as a nation is, in the highest degree, prosperous and flourishing—nearly half the debt incurred in the late war having already been discharged, and considerable progress having also been made in the completion of this system of defence, and in the construction of other works

of great extent and utility, by the revenue derived from these sources, and from the sale of the public lands. I may add, also, that a very generous provision has been made, from the same sources, for the surviving officers and soldiers of our Revolutionary army. These important facts show that this system has been so far executed, and may be completed, without any real inconvenience to the public. Were it, however, otherwise, I have full confidence that any burdens, which might be found necessary for the completion of this system, in both its branches, within the term contemplated, or much sooner, should any emergency require it, would be called for, rather than complained of, by our fellow citizens.

From these views, applicable to the very important subject of our defences generally, as well as to the work at Dauphin Island, I think it my duty to recommend to Congress an appropriation for the latter. I considered the withholding it, at the last session, as the expression only of a doubt, by Congress, of the propriety of the position, and not as a definitive opinion. Supposing that that question would be decided at the present session, I caused the position, and such parts of the coast as are particularly connected with it, to be re-examined, that all the light on which the decision, as to the appropriation, could depend, might be fully before you. In the first survey, the report of which was that on which the works, intended for the defence of New Orleans, the Mississippi, the bay of Mobile, and all the country dependent on those waters, were sanctioned by the Executive, the Commissioners were industriously engaged about six months. I should have communicated that very able and interesting document then, but from a doubt how far the interest of our country would justify its publication, a circumstance which I now mention, that the attention of Congress may be drawn to it.

JAMES MONROE.

WASHINGTON, March 26, 1822.

INDIAN TRADE.

The Senate resumed, in Committee of the Whole, the consideration of the bill to abolish the present establishment of Indian trade, and to provide for opening that trade to licensed individuals—the amendments offered by Mr. BENTON (going principally to discontinue the establishment in June, 1822, instead of 1823; to take the settlement of its affairs out of the hands of the present officers, and to confine the present bill to that abolition simply) being the question still pending.

Mr. RUGGLES made a few remarks in reply to some former observations of Mr. BENTON, and in support of the bill as reported by the committee.

Mr. LANMAN also submitted his reasons for preferring the bill as it was, to the amendments.

Mr. VAN BUREN spoke at some length to show that the objections urged against the existing establishment of Indian trade applied more to the organization of the system than to the system itself; and to show that, if it were proper to abolish it, the winding up of its concerns ought to be confided to the present officers, as proposed by the bill, rather than to other persons, as proposed by the amendments, &c.

Mr. LOWRIE also added some remarks to the same effect.

Mr. BENTON replied to those gentlemen who

had adverted to his remarks, and advocated, at considerable length, not only the course he had proposed to adopt on this subject, but the reasons and facts he had urged in its support, many of which he repeated and enforced.

Mr. JOHNSON, of Louisiana, replied to Mr. BENTON also at considerable length, and supported the bill against the objections made to it.

Mr. VAN BUREN subjoined some further remarks against the amendments.

Mr. MACON spoke against any system of Government trade with the Indians, as unprofitable to the nation, inexpedient, and every way more objectionable than a well-regulated system of licensed private trade—contending that the Government could not attend to all the minutiae of Indian trade, and at the same time all the affairs of Europe, and, in addition to these, all the affairs of South America, which were now taken in hand. He was in favor of the amendments.

Mr. KING, of Alabama, had no objection to discontinuing the factory system, though it had been productive of much good; but he wished at the same time to substitute some other more eligible, such as the bill provided, and spoke against the amendment for this, and also for the reason that it would not leave time enough to wind up the concerns of the system, if directed to be done by June next.

Mr. BENTON, then, after observing that some time had elapsed since the amendment was first offered, stated that he would modify the proposition by adding, after the first of June, 1822, the words, "or as soon thereafter as can conveniently be done."

The bill was then postponed until to-morrow.

THURSDAY, March 28.

Mr. THOMAS, from the Committee on Public Lands, to which was referred the petition of William C. Jones, made a report, accompanied by a resolution that the committee be discharged from the further consideration of the subject.

Mr. EATON presented the petition of John J. C. Oldfield, of Baltimore, praying the payment of two drafts drawn by Samuel Brook, acting Treasurer of the United States, on the cashier of the Bank of Knoxville, in the State of Tennessee, for which drafts he paid a valuable consideration, without any knowledge of their having been fraudulently obtained. The petition was read, and referred to the Committee of Claims.

The bill, entitled "An act supplementary to the acts to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war," was read the second time, and referred to the Committee on Pensions.

The Senate resumed, as in Committee of the Whole, the consideration of the bill confirming the title of the Marquis de Maison Rouge; together with the amendment reported thereto; and the further consideration thereof was postponed to and made the order of the day for to-morrow.

The Senate took up the amendments, made in Committee of the Whole, to the bill "to provide

MARCH, 1822.

Indian Trade.

SENATE.

for the collection of duties on imports and tonnage in Florida, and for other purposes," and, having concurred therein, the bill was ordered to be engrossed and read a third time.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act for the relief of James McFarland," in which bill they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

THREE PER CENT. BILL.

The Senate took up the amendment of the House of Representatives to the bill granting to the States of Missouri, Mississippi, and Alabama, three per cent. of the net proceeds of the sales of public lands in those States, agreeably to the acts for their admission into the Union, which amendment proposes that, before any part of the three per cent. be paid to those States, the amount due to Georgia and the Yazoo claimants, under the Yazoo compromise, (about five million dollars,) shall be first deducted therefrom.

Mr. WALKER, of Alabama, spoke at some length against this amendment; contending that it was not competent for the Government of the United States, consistently with the compact formed with Alabama, in the act for her admission into the Union, to impose any such condition on her portion of the net proceeds, and that it would violate that compact absolutely and expressly. To support this opinion he reviewed the conditions annexed to the admission of the other new States, as well as of Alabama, and adduced a number of arguments to show that the Government did not possess the power to touch the fund set apart for the State for specific purposes by compact. He argued, also, that this amendment went even further, in relation to Mississippi, than was consistent with the provision on the subject in the act which admitted that State into the Union, and was utterly inapplicable and unjust in relation to Alabama. He concluded his speech by moving to strike out all that part of the amendment which applied to the State of Alabama.

Mr. EATON moved to refer the amendment to the Land Committee, for them to ascertain the existence of the facts stated by Mr. WALKER, agreeing, if that gentleman were correct, the amendment of the House of Representatives would be improper.

After a few remarks by Mr. KING, of New York, in favor of the commitment, and Mr. WALKER,

The amendment and the bill were committed as moved.

INDIAN TRADE.

The Senate then resumed, in Committee of the Whole, the bill to abolish the establishment of Indian trade and to provide for opening that trade to private individuals—the amendments offered thereto by Mr. BENTON still pending.

Mr. SMITH delivered the reasons, at considerable length, which influenced him to favor the amendments in preference to the original bill.

17th Con. 1st Sess.—12

Mr. JOHNSON, of Kentucky, took the other side, and spoke some time in opposition to the amendment.

Mr. BROWN, of Ohio, made some remarks in favor of the amendment; when

The question was taken on Mr. BENTON'S amendments, and they were agreed to—ayes 17, noes 11.

Mr. BENTON then moved to recommit the bill, that the different objects which it embraces, viz: the abolition of the present system—the establishment of a system of private trade, &c., might be reported in separate bills.

After a good deal of debate on the subject, in which Messrs. OTIS, BENTON, TALBOT, JOHNSON, of Louisiana, RUGGLES, LOWRIE, and LANMAN, took part; and, before taking any question, the Senate adjourned.

FRIDAY, March 29.

The bill entitled "An act for the relief of James McFarland" was read the second time, and referred to the Committee on Public Lands.

The bill to provide for the collection of duties on imports and tonnage in Florida, and for other purposes, was read a third time, and passed.

The following letter was laid before the Senate by the President:

OFFICE OF INDIAN TRADE,
Georgetown, March 28, 1822.

To the Honorable the President of the Senate of the United States:

SIR: I have the honor respectfully to represent that insinuations having been made in the course of debate on the bill now before the Senate, on Indian Affairs, implicating the integrity with which I have fulfilled the duties of Superintendent of Indian Trade; and feeling the value of my reputation to be enhanced by the circumstance of its constituting my only inheritance; and conscious of having executed the duties of my office with the utmost zeal and fidelity, and claiming the right of an American citizen, I do therefore respectfully solicit that a committee be appointed, with instructions to make such examinations into the manner in which I have discharged the duties of the trust with which I have been honored, as it may be considered proper to order.

I have the honor to be, &c.,

THOMAS L. M'KENNEY,
Superintendent of Indian Trade.

The letter was read.

The report of the Committee on Public Lands, unfavorable to the petition of William C. Jones, was taken up and concurred in.

INDIAN TRADE.

The Senate resumed, in Committee of the Whole, the bill to discontinue the Indian trade system, and to provide for opening the trade to individuals under certain regulations.

Mr. BENTON withdrew the motion which he made yesterday to recommit the bill with certain instructions; and, in lieu thereof, moved to strike out all those sections which proposed to establish a system of private trade, by license, under the management of a principal superintendent to re-

side at the Seat of Government, and assistant superintendent to reside at St. Louis, in Missouri. The effect of this motion was to limit the present bill to a simple abolition and settlement of the concerns of the present factory system.

The question was taken on this motion without debate or objection, and carried; and the bill, as amended, was ordered to be engrossed and read a third time.

MAISON ROUGE'S CLAIM.

The Senate resumed, as in Committee of the Whole, the consideration of the bill confirming the title of the Marquis de Maison Rouge, together with the amendment reported thereto by the Committee on Public Lands.

The amendment is as follows:

Strike out all after the enacting clause, and insert the following:

That it shall be lawful for the legal representatives of the Marquis de Maison Rouge, or persons lawfully claiming title under him, and they are hereby permitted and authorized, at any time within two years from the passing of this act, to institute a bill in equity, in the nature of a petition of right, against the United States, in the district court of the United States in and for the Louisiana district, in which they may set forth their claim and title to four several tracts of land, said to contain together two hundred and eight thousand three hundred and forty-four superficial arpens, situate in Ouachita and Catahoula counties, in the said State of Louisiana, and said to be granted to the said Marquis de Maison Rouge on the twentieth of June, seventeen hundred and ninety-seven, by the Baron de Carondelet, then Governor General of the province of Louisiana.

SEC. 2. *And be it further enacted*, That a copy of said bill shall be served on the Attorney of the United States for the said district of Louisiana, and it shall be his duty, together with such assistant counsel as may be employed on the part of the United States, to prepare and put in the proper pleas and answers, and make all proper defence thereto in behalf of the United States.

SEC. 3. *And be it further enacted*, That the said suit shall be conducted according to the rules of a court of equity, and the said court shall have full power and authority to hear and determine all questions arising in said cause relative to the title of the claimants, the extent, locality, and boundaries, of the said claim, or other matters connected therewith, fit and proper to be heard and determined; and, by a final decree, to settle and determine the question of title, and all other questions properly arising between the claimants and the United States, according to the laws, usages, and regulations, of the Government under which the said claim originated.

SEC. 4. *And be it further enacted*, That either party may have disputed facts found by a jury, according to the regulations and practice of the said court when directing issues in chancery; and the party against whom the judgment or decree of said district court may be finally given, shall be entitled to an appeal to the Supreme Court of the United States, the decision of which court shall be final and conclusive between the parties; and, should no appeal be taken, the judgment or decree of the said district court shall, in like manner, be final and conclusive.

SEC. 5. *And be it further enacted*, That the said

suit shall not abate by the death of any of the parties thereto, but, upon suggestion of the death of any party upon the record, his legal representatives shall be admitted as parties to prosecute the suit.

The question being taken on the amendment, it was determined in the affirmative—yeas 25, nays 14, as follows:

YEAS—Messrs. Benton, Brown of Louisiana, Eaton, Edwards, Elliott, Gaillard, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lowrie, Mills, Noble, Otis, Palmer, Parrott, Pleasants, Seymour, Stokes, Taylor, Thomas, Van Dyke, and Williams of Mississippi.

NAYS—Messrs. Barton, Boardman, Brown of Ohio, Chandler, D'Wolf, Dickerson, Holmes of Maine, Lanman, Macon, Morril, Ruggles, Smith, Van Buren, and Walker.

Mr. EATON proposed the following amendment:

SEC. 6. *And be it further enacted*, That the same privileges as are by this act secured to the representatives of the Marquis de Maison Rouge, shall, and the same are hereby declared to be extended to the claimants of a tract of land of a thousand arpens square to Elisha Winter, one for five hundred arpens square to William Winter, lying in the Territory of Arkansas, under the same limitations, restrictions, and conditions, as are contained in the preceding sections of this act.

On this amendment a debate of three hours duration, and of wide scope, took place, embracing the expediency and the constitutionality of referring questions of this kind from Congress to the Judiciary, and, incidentally, the merits of the two great claims proposed to be submitted to judicial investigation and decision. Those gentlemen who joined in the debate were Messrs. EATON, DICKERSON, VAN DYKE, WALKER, JOHNSON of Kentucky, BARTON, LANMAN, JOHNSON of Louisiana, BROWN of Louisiana, VAN BUREN, TALBOT, SMITH, MACON, and LOWRIE.

The question being taken on including the claim of the Winters in the amendment reported by the land committee, was decided by yeas and nays in the negative—yeas 13, nays 26, as follows:

YEAS—Messrs. Barton, Brown of Louisiana, Eaton, Edwards, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, Morril, Noble, Pleasants, Taylor, Thomas, and Williams of Mississippi.

NAYS—Messrs. Benton, Boardman, Brown of Ohio, Chandler, D'Wolf, Dickerson, Elliott, Gaillard, Holmes of Maine, King of Alabama, King of New York, Knight, Lanman, Lowrie, Macon, Mills, Otis, Palmer, Parrott, Ruggles, Seymour, Smith, Stokes, Van Buren, Van Dyke, and Walker.

The bill having been amended, it was reported to the Senate accordingly; and the amendment having been agreed to with further amendments, the bill was ordered to be engrossed and read a third time.

Mr. LANMAN, from the committee appointed on the part of the Senate, jointly with the committee appointed on the part of the House of Representatives, to confer upon the subject of such disposal as may be suitable of the national paintings executed by Colonel Trumbull, reported a joint

APRIL, 1822.

Land Titles in Missouri.

SENATE.

resolution, which was read and considered; and, on motion, the Senate adjourned.

MONDAY, April 1.

The Senate resumed the consideration of the joint resolution directing a temporary deposite of the national paintings in certain committee rooms of the Senate; and

Resolved, That this resolution pass.

Mr. BROWN, of Ohio, presented the petition of Chester Griswold, late a captain in the Army, praying a pension. The petition was read, and referred to the Committee on Pensions.

Mr. MILLS presented the petition of Samuel F. Hooker, of New York, praying compensation for certain naval supplies; and, also, another petition of the said petitioner, praying indemnification for property captured by the British during the late war, which capture was occasioned by his vessel having received supplies intended for the American army at Fort George. The petitions were severally read, and respectively referred to the Committee of Claims.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of the legal representatives of Joseph Hodgson, deceased; and the same having been amended by filling the blank with "six thousand," it was reported to the Senate accordingly; and the amendment being concurred in, on the question, "Shall this bill be engrossed and read a third time?" it was determined in the affirmative—yeas 27, nays 13, as follows:

YEAS—Messrs. Benton, Brown of Louisiana, Brown of Ohio, Dickerson, Eaton, Gaillard, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Lanman, Lloyd, Mills, Otis, Palmer, Parrott, Pleasants, Seymour, Stokes, Talbot, Taylor, Thomas, Van Buren, Van Dyke, Walker, Ware, and Williams of Tennessee.

NAYS—Messrs. Barbour, Barton, Boardman, Chandler, D'Wolf, Holmes of Maine, Holmes of Mississippi, Lowrie, Macon, Noble, Ruggles, Smith, and Williams of Mississippi.

The bill to abolish the United States trading establishment with the Indian tribes, and to provide for the opening the trade to individuals, was read a third time and passed.

On motion, by Mr. THOMAS, it was agreed to reconsider the vote of the Senate on agreeing to the report of the Committee on Public Lands, on the petition of William C. Jones; and, on his motion, it was laid on the table.

MAISON ROUGE'S CLAIM.

The engrossed bill to permit a judicial investigation and decision of the claim of the Marquis de Maison Rouge, to a tract of land in Louisiana, was read the third time, and then, for the purpose of introducing an amendment, to compel the district attorney to take an appeal to the Supreme Court, should the decision be adverse to the United States, Mr. EATON moved to recommit the bill.

Mr. BROWN, of Louisiana, opposed the motion, on the ground that the amendment was unnecessary, inasmuch as the District Attorney would

certainly deem it his duty to prosecute an appeal, should the decision be in favor of the complainant; that the claim was one of too great magnitude and of too much importance to presume that an attorney would omit to appeal, and that the Government might safely confide in that officer to perform his duty in that respect without any compulsory provision in the bill.

After some further conversation on the subject, the motion prevailed, and the bill was recommitted.

LAND TITLES IN MISSOURI.

The Senate then, in Committee of the Whole, Mr. MILLS in the chair, resumed the consideration of the bill for the adjustment of incomplete French and Spanish land titles in Missouri.

Mr. EATON offered the following proviso as an amendment to the first section:

"Provided, That no incomplete title shall be confirmed, unless the person in whose name such concession, warrant, or order of survey, had been granted, was, at the time of its date, either the head of a family, or above the age of twenty-one years; and said original claimants, or their representatives, or those claiming under them, were residents of said territory of Upper Louisiana, on the 20th day of December, 1803: *And provided*, further, That no grant or incomplete title dated after the first day of October, 1797, shall be confirmed where said grant or incomplete title contains a greater quantity than eight hundred arpens, unless it be a grant or incomplete title signed and executed by the intendand of the province itself."

Mr. EATON explained his reasons for offering this amendment; and was followed by Mr. BARTON, and Mr. BENTON, against the adoption of this proviso; but before the motion was decided, the Senate adjourned.

TUESDAY, April 2.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to Congress the translation of two letters from the Minister of France to the Secretary of State, relating to the claim of the heirs of Caron de Beaumarchais upon this Government, with the documents therewith enclosed, recommending them to the favorable consideration of Congress.

JAMES MONROE.

WASHINGTON, March 29, 1822.

The following Message, from the PRESIDENT OF THE UNITED STATES, was also received:

To the Senate of the United States:

In compliance with two resolutions of the 11th ultimo, requesting that the President of the United States cause to be furnished to that House certain detailed information from the Navy Department, I herewith transmit a report from the Secretary of the Navy, with other documents.

JAMES MONROE.

WASHINGTON, April 1, 1822.

The Message and documents were read.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to a resolution of the Senate of the 10th of January

SENATE.

Indian Affairs.

APRIL, 1822.

last, exhibiting the duties which have accrued on books imported into the United States during the years 1817, 1818, 1819, 1820, and 1821; and the report was read.

Mr. HOLMES, of Maine, from the Committee on Finance, to which was referred the bill, entitled "An act for the relief of Gad Worthington;" the bill, entitled "An act for the relief of Solomon Porter, junior;" and, also, the bill entitled "An act to remit the duties on a sword imported for Captain Thomas Macdonough, of the United States' Navy," reported the same, respectively, without amendment.

On motion, by Mr. HOLMES, of Maine, the Committee on Finance, to which was referred the memorial of John W. Simington and his associates, who have formed a settlement on the island of Key West, in East Florida, praying that the same may be made a port of entry, were discharged from the further consideration thereof.

Mr. HOLMES, of Maine, submitted the following motion for consideration:

Resolved, That the President of the United States be requested to furnish the residue of the information required by the resolutions of the 11th March, 1822, as soon as convenient.

Resolved, That the President be requested to communicate to the Senate the number of the officers and men belonging to the Navy, attached to each naval station in the United States, with the duties they respectively perform, and the compensation each has received in pay, rations, and other emoluments, for two years, ending on the first day of January last.

Mr. RUGGLES, from the Committee of Claims, to which was referred the bill, entitled "An act for the relief of John Anderson," reported the same without amendment.

Mr. KNIGHT presented the petition of David Melville, for himself and Alexander Black, stating that they have made an improvement in lamps used in lighthouses, for which they have obtained a patent, and praying that the same may be adopted by the United States. The petition was read, and referred to the Committee on Commerce and Manufactures.

Mr. BENTON, from the Committee on Indian Affairs, reported a bill to amend an act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved 30th March, 1802; the bill was read, and passed to the second reading.

Mr. THOMAS, from the Committee on Public Lands, to which was referred the amendment of the House of Representatives to the amendment of the Senate to the bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of public lands within the same," reported it without amendment.

On motion, by Mr. PARROTT, the Message from the President of the United States, transmitting to Congress the report of the commissioners appointed in conformity with the provisions of the fourth section of an act of the last session to authorize the building of lighthouses therein men-

tioned, and for other purposes, was referred to the Committee on Commerce and Manufactures.

The engrossed bill for the relief of the legal representatives of Joseph Hodgson, deceased, was read a third time, passed, and sent to the other House for concurrence.

The following bills were received from the other House for concurrence, twice read by general consent, and referred, viz:

The bill authorizing an exchange of certain stocks; the bill to alter the times of holding the courts in the western district of Virginia; the bill for the relief of William E. Meek, and the bill for the relief of Cornelius Huson.

LAND TITLES IN MISSOURI.

The Senate resumed, in Committee of the Whole, the consideration of the bill to provide for trying the validity of incomplete French and Spanish land titles in Upper Louisiana, (Missouri,) the question being on Mr. EATON's amendment offered yesterday.

A debate of near three hours' duration took place, on this amendment, in which it was advocated by MESSRS. EATON, HOLMES, of Maine, VAN BUREN, KING, of New York, and VAN DYKE, and was opposed by MESSRS. BENTON, BROWN, of Louisiana, and JOHNSON, of Louisiana.

After some modification of the amendment, the question was taken on agreeing thereto, and was carried—yeas 20, nays 15.

The Senate then proceeded in maturing and discussing the other details of the bill, in which MESSRS. HOLMES, of Maine, BROWN, of Louisiana, BENTON, KING, of New York, OTIS, BARTON, LOWRIE, LANMAN, took more or less part; and, having got through the bill, it was reported with the amendments, and the bill was laid on the table.

INDIAN AFFAIRS.

Mr. BENTON submitted the following motion for consideration:

Resolved, That the President of the United States be requested to communicate to the Senate, at their next session, such information as may in the mean time be obtained, showing the number of persons of whole or part Indian blood, detached from their tribes, and living among the white people in each of the States of Missouri, Illinois, and Indiana, and the Territories of Arkansas and Michigan; the names of the heads of each family, and the number of their children, and whether their father or mother, and which, is of whole or part Indian blood; the names of each single person of the same description above the age of twenty-one years; the state of education among them, the religion which they profess, and the places of their residence; the causes which have induced them to quit their tribes and settle among the white people; and whether they have received donations in land from the French and Spanish, or American Governments, and, if any, how much, from what Government received, where situated, and whether the donee now possesses it.

Resolved, That the President of the United States be requested to cause the said information to be collected from the United States' Indian agents, and such others as he shall think proper, by causing the

APRIL, 1822.

Maison Rouge's Claim.

SENATE.

appropriate inquiries to be addressed to them; and the substance of their information to be digested into a report, and communicated to the Senate.

In introducing the preceding resolutions, the mover, Mr. BENTON, stated his object to be to obtain correct information with respect to the description of persons therein mentioned, with a view of making some provision to better their condition. He knew of many persons in the States and Territories of the description mentioned, some of whom had applied to him to propose a law to give them lands, as had been given to the early white settlers in the same countries. He had delayed acting on their request in order to obtain full and correct information, to make it the basis of a law that would operate generally in behalf of all such persons now residing in the white settlements, and others who may choose to do the like; conformably to the idea contained in the President's inaugural address of the fourth of March last.

MAISON ROUGE'S CLAIM.

The Senate then resumed, in Committee of the Whole, the consideration of the bill authorizing a judicial trial of the title of the Marquis de Maison Rouge to a tract of land; which bill was, at its third reading, yesterday, recommitted to a committee for the purpose of incorporating certain amendments.

Some debate occurred on certain amendments of form which were offered, and, after adopting one to compel the United States' attorney to appeal to the Supreme Court in case the decision of the district court be in favor of the claimant, the bill was again ordered to be read a third time, by yeas and nays—26 to 13, as follows:

YEAS—Messrs. Brown of Louisiana, Eaton, Edwards, Elliott, Findlay, Gaillard, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lowrie, Mills, Palmer, Parrott, Pleasants, Seymour, Stokes, Talbot, Taylor, Thomas, Van Dyke, Ware, and Williams of Tennessee.

NAYS—Messrs. Barbour, Barton, Boardman, Brown of Ohio, Chandler, D'Wolf, Dickerson, Holmes of Maine, Lanman, Macon, Ruggles, Van Buren, and Walker.

WEDNESDAY, April 3.

Mr. NOBLE, from the Committee on Pensions, to which was referred the bill, entitled "An act supplementary to the acts to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war," reported the same without amendment.

Mr. SMITH, from the Committee on the Judiciary, made an unfavorable report on the petition of Samuel Buel, which was read.

Mr. THOMAS, from the Committee on Public Lands, made an unfavorable report on the petition of James W. Files, which was read.

The Senate took up the resolutions submitted yesterday by Mr. BENTON, proposing to request the President of the United States to collect and furnish certain information relative to the Indians

detached from their tribes, and residing in the United States and their Territories; and, after some objections by several members, on the ground of the improbability that Congress would carry into effect the object avowed by the mover, viz: the granting of donations of land to those Indians; and, moreover, the difficulty of obtaining the information called for; the resolution was ordered to lie on the table.

Mr. BARBOUR, from the Committee on the District of Columbia, reported a bill to enable the Corporation of Washington City to drain the low grounds on and near the public reservations, and to improve and ornament certain parts of such reservations; and the bill was twice read by general consent.

The Senate took up, in Committee of the Whole, the bill to perfect certain locations and sales of public lands in Missouri; and, having amended the same, it was ordered to be engrossed, and read a third time.

The Senate resumed the consideration of the bill to enable the holders of incomplete French and Spanish titles to lands within that part of the late province of Louisiana, which is now comprised within the limits of the State of Missouri, to institute proceedings to try the validity thereof, and to obtain complete titles for the same when found to be valid; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed the consideration of the amendments of the House of Representatives to the bill providing for paying to the States of Missouri, Mississippi, and Alabama, three per cent. of the net proceeds of the sales of public lands within the same. The Committee on Public Lands, to which this amendment had been referred, recommend that the Senate disagree thereto.

Some debate took place on the question of disagreement, in which Messrs. THOMAS, EATON, KING of New York, WALKER, CHANDLER, VAN BUREN, BROWN of Ohio, LOWRIE, and OTIS, took part; and, after making some modification thereof, the question was taken on disagreeing to the amendment of the other House, and was carried by the casting vote of the President—16 rising in favor of, and 16 against it. So the amendment of the House of Representatives was disagreed to.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to revive and continue in force 'An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia,'" and also a bill, entitled "An act restoring to the ship Diana the privileges of a sea-letter vessel;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and severally passed to the second reading.

The bill, entitled "An act to revive and continue in force, 'An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia,'" was read the second time, by unanimous

consent, and referred to the Committee on Commerce and Manufactures.

The bill, entitled "An act restoring to the ship *Diana* the privileges of a sea-letter vessel," was read the second time, by unanimous consent, and referred to the Committee on Finance.

The bill for the relief of Daniel Carroll, and others, proprietors of a building recently occupied by Congress, passed through a Committee of the Whole, in which it was examined and discussed, and was ordered to be engrossed for a third reading.

The bill to authorize a land district to be laid off, and an additional land office established in the State of Illinois, passed through a Committee of the Whole, in which it was explained and supported by Messrs. EDWARDS, and THOMAS, and amended, and was then ordered to be engrossed for a third reading.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, reported a bill for the relief of the legal representatives of Greenbury H. Murphy, which was read.

The following resolutions, submitted by Mr. HOLMES of Maine yesterday, were taken up, viz:

Resolved, That the President of the United States be requested to furnish the residue of the information required by the resolution of the 11th of March, 1822, as soon as convenient.

Resolved, That the President be requested to communicate to the Senate the number of the officers and men belonging to the Navy, attached to each naval station in the United States, with the duties they respectively perform, and the compensation each has received in pay and rations, and other emoluments, for two years, ending on the first day of January last.

Mr. H. explained the object he had in view in calling for the information, and the necessity of having it before the Senate. After some discussion of the form of the resolutions, the extent and nature of the information proper to be required, &c., in which MESSRS. HOLMES, PLEASANTS, LOWRIE, PARROTT, KING, of New York, and VAN BUREN, took part, the resolutions were laid on the table.

MAISON ROUGE'S CLAIM.

The bill to authorize a judicial decision of the title of the Marquis de Maison Rouge, to a tract of land, was read the third time, and passed, by yeas and nays, 27 to 14, as follows:

YEAS—Messrs. Benton, Brown of Louisiana, Eaton, Edwards, Elliott, Findlay, Gaillard, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lloyd, Lowrie, Otis, Palmer, Parrott, Pleasants, Seymour, Stokes, Talbot, Taylor, Thomas, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Barton, Boardman, Brown of Ohio, Chandler, D'Wolf, Dickerson, Holmes of Maine, Lanman, Macon, Morrill, Ruggles, Smith, and Walker.

LAND OFFICES.

The Senate then took up, in Committee of the Whole, the bill to authorize the designation of a new land district, and the establishment of another land office, in the State of Indiana; and having got through the same—

Mr. KING, of New York, rose, not with any intention of opposing the passage of this bill, but merely to submit to the Senate whether it was not time to pause in that course of policy which had increased these land offices to such an extent. In the old States, all the land business was transacted in one office, and no inconvenience was complained of. The land offices under the authority of the United States, had already increased to about thirty; and he suggested whether, at a time when the contributions to the public Treasury were daily diminishing, it was expedient to multiply channels to drain it. This great multiplicity of land offices could not be necessary for the public convenience; and so far from increasing the number, he conceived it his duty, or the duty of some other gentleman, to introduce a plan for abolishing them altogether, and substituting some less expensive mode of managing that branch of public affairs.

Mr. LOWRIE admitted that the suggestions of Mr. K. were well worthy of serious consideration. He admitted that the creation of every additional land office increased the public expenses one thousand dollars; but he argued that the object of the Government was not so much to derive a revenue from the public lands, as to afford facilities and protection to their settlement; and, although he was not prepared to say that the system ought not to be changed, yet, while it continued as it was, it was right to afford to the poor people who emigrated to the new country for settlement, every convenience in making their purchases, and not subject them to the expense of travelling a long journey from the spot they wished to settle on to a land office to make their entries. The districts in that part of the country were very large, and the number of land offices, he thought, ought to be sufficient for the convenience of all parts of it.

The bill was reported to the Senate, and was ordered to be engrossed for a third reading.

THURSDAY, April 4.

Mr. HOLMES, of Maine, from the Committee on Finance, to which was referred the bill, entitled "An act restoring to the ship *Diana* the privileges of a sea-letter vessel," reported the same without amendment.

The Senate resumed the consideration of the motions of the 2d instant, for requesting the President of the United States to communicate certain information relative to the Navy of the United States; and the same having been modified, on motion, they were laid on the table.

The Senate proceeded to consider the report of the Committee on the Judiciary, to which was referred the petition of Samuel Buel; and, on motion, by Mr. SEYMOUR, it was laid on the table.

The bill to amend an act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved 30th March, 1802; and also the bill for the relief of the legal representatives of Greenbury H. Murphy; were severally read the second time.

The Senate resumed, as in Committee of the

APRIL, 1822.

Drawback on Cordage.

SENATE.

Whole, the consideration of the bill granting the right of pre-emption to actual settlers on the public lands in the State of Illinois; and, on motion, by Mr. THOMAS, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of the representatives of John Donnelson, Thomas Carr, and others; and the further consideration thereof was postponed until Monday next.

The following engrossed bills were severally read the third time, passed, and sent to the House of Representatives for concurrence, viz:

The bill to establish an additional land office in Indiana; the bill to perfect certain locations and sales of public lands in Missouri; and the bill for the relief of D. Carroll, and others.

The report of the Committee on Public Lands unfavorable to the petition of James W. Files, was taken up and agreed to.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to enable the holders of incomplete French and Spanish titles to lands within that part of the late province of Louisiana which is now comprised within the limits of the State of Missouri, to institute proceedings to try the validity thereof, and to obtain complete titles for the same when found to be valid; and, on motion by Mr. BENTON, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the paving of Pennsylvania avenue; and, on motion by Mr. BARBOUR, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for ascertaining claims and titles to land within the Territories of East and West Florida; and, after debate, the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The bill for the relief of the sureties of Joseph Pettipool, formerly a paymaster in the Army, (to authorize the settlement upon equitable principles of certain suspended items of his account,) was considered, and ordered to be engrossed for a third reading.

The bill authorizing a like settlement of the accounts of Captain Joseph C. Boyd, a district paymaster in the late army, was also considered and discussed, and was ordered to be engrossed for a third reading.

The Senate then took up, in Committee of the Whole, the bill to amend the act granting the right of pre-emption to certain settlers in the State of Louisiana.

In discussing the provisions of this bill, and the amendments offered to it, the Senate occupied nearly two hours, but without completing its consideration. It was laid over until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and deciding, controversies between States; and the further consideration thereof was postponed to, and made the order of the day for, Wednesday next.

The President communicated a report of the

Secretary of the Treasury, as a substitute for his report of the 30th ultimo, transmitted to the Senate on the 2d instant, in obedience to their resolution of the 10th of January last, exhibiting the duties which have accrued on books imported into the United States during the years 1817, 1818, 1819, 1820, and 1821; and the report was read.

The PRESIDENT also communicated a letter from the Secretary of the Treasury, transmitting copies of the reports made to that Department by the several incorporated banks in the District of Columbia, showing the state of their affairs at the commencement of the present year; and the letter and reports were read.

Mr. LOWRIE submitted the following resolution for consideration:

Resolved, That the 41st rule of the Senate be amended, to read as follows:

"No paper or document shall be printed for the use of the Senate without special order."

The resolution was read, and passed to the second reading.

DRAWBACK ON CORDAGE.

The Senate took up, in Committee of the Whole, the bill to allow a drawback on the export of cordage manufactured from foreign hemp.

Mr. D'WOLF remarked, that he did not observe the chairman of the committee (Mr. DICKERSON) who reported the bill, in his seat; he therefore took the liberty to state to the Senate, that the Committee on Commerce and Manufactures had taken the subject-matter of the resolution, proposing a drawback on articles manufactured from foreign materials, under consideration, and resolved to report the bill now before the Senate, proposing a drawback on one article only—cordage made from foreign hemp. Mr. D'W. observed, that he was not desirous of making speeches; and having communicated his views upon the subject, on offering the resolution, if there were no objections to the bill, he hoped it would pass, and if there were, he should wish to hear them.

Messrs. JOHNSON, of Kentucky, BROWN, of Louisiana, and HOLMES, of Maine, made some remarks, questioning the policy of the measure as it regards the home growth of hemp, the revenue, &c.

Mr. D'WOLF then rose and observed, that he considered the policy of the measure sound; that his opinion was in unison with that of the gentleman from Kentucky, that if it militated against the domestic production of hemp, he would abandon the project. But, Mr. D'W. said, he was well satisfied it would not have that effect; that, although it would have a tendency to encourage the importation of hemp, it would encourage the exportation of cordage more, and the balance of encouragement was in favor of the home grower of hemp, who always wished to see the market bare of the article when he brought forward his crop for sale. He said that the Government depended on the consumption of imports for its revenue; and more than this, he believed, they could not have. Congress, said he, takes special care to retain the duties on all that is consumed, as well by the ele-

ments (fire and flood) as by the people, which he took leave to remark, operated rather unequally, and bore hard upon the importers, being a direct tax upon them. As to the revenue being injured by the measure, he did not believe that would be the case if fairly considered—all laws were liable to abuse; it would not do to say that Congress should not legislate on subjects of this nature for that reason. The revenue was and must be derived from the industry of the people, be it in what shape it may. We have, said he, Committees of Ways and Means, but I have never known them to do or say much about the means; the time of Congress being consumed upon the ways of collecting and disposing of the revenues, and the means were left to take care of themselves. Mr. D'W. considered that the industry of the people was the means, and that any measures which went to encourage their industry, must be favorable to the revenue; the growers of cotton support the revenue, because they furnish exports, which give the means to produce imports, and from imports we collect our revenue, as does every branch of industry which adds to the Commonwealth give the means for revenue. The rope maker, who adds value to the imported raw material, and thus makes an article of export, adds to our means of revenue.

He wished, he said, that we were not so much in the habit of classing our industry. He believed it was imported policy to consider the different branches of our industry as adverse interests. He wished we could view the industry of the whole country as one interest. He had taken much pains to look into this subject, and it had not been in his power to find any branch of home industry, which would be liable to suffer by the measure now proposed. He was not of the opinion with some gentlemen, that the trade of the country is flourishing; it may be well enough to say so to foreign nations, with whom we have commercial disputes, but he did not believe the fact to be so. He had looked at the book sent to Congress by the Secretary of the Treasury, showing the exports and imports; he found included in our exports the amount of gold and silver coin sent out of the country, which was about two and one-half millions; deduct this from our exports, and it leaves them about the same as the imports. This was not a flourishing state of trade, but if it was a true state of it, he should not be much alarmed. He was not, he said, a gloomy man, nor very desirous to show the worst side of a bad case, but he had always thought he was not adding any thing to his own estate, unless he was selling more of the produce of his own industry than he purchased of others. He had attempted to make some statement for his own guide in this business, but had not finished it; the result, so far as he had gone, led him to the conclusion, that the people of this country are indebted to Europe more than one hundred millions of dollars; the items of debt are many. To pay the interest of this debt, whether it be public or private, it must take a part of our exports, say five millions at least; and this, if paid, leaves a balance against us of that sum, which is adding to the aggregate amount of our debts

abroad; and any gentleman who feels disposed to offset this item against the freight our ships make in carrying our produce to market, and profits on our exports I will offer him, said Mr. D'W., the hundreds of thousands of barrels of flour now piled up in the ports of Europe, and the West Indies, sour and spoiled, on the hands, and on account of the shippers in this country. As for profits on our produce exported, he believed no well informed merchant would pretend there were any; if we obtain within ten per cent. of the cost, it is considered doing pretty well; it is on the return cargoes we depend for our profits, if we get any.

The shipping interest and trade of the country, Mr. D'W. thought important to the nation. Spanish America, said he, is now offering a trade to the world, and our competitors, the British, are eager to engross it; we have not the manufactured articles with which to supply that country, nor the manufactories to consume their raw materials; but we have ships, seamen, and enterprise, and some capital, (although not so much as Great Britain,) and we can come in for a share of this trade, if the Government will grant the same aid to enable us to compete with them. England allows drawbacks on cordage to amount of duties, both on the hemp and tar; they obtain their hemp from Russia, the same country which supplies us. We have the machinery and art for making cordage, in as great perfection as the British, or any other European nation, and our people are as capable and industrious; but unless we get the drawbacks, we must give up that branch of trade. The measure now proposed, will employ some shipping to bring the hemp for making cordage to export, and as far as this goes, creates consumption of the article in our own country, and of course directly adds to the revenue. We shall go to Europe and obtain manufactures for the Spanish American markets, and carry thither the raw materials of that country, to such ports as may admit us; but the merchant who finds the manufactured articles needed in his own country, and a market at home for his return cargo, must have great advantages over him who has to look to foreign countries for both. Hence, if it be any object with Government to aid commerce, he could see no way to do it better than by this measure, as far as it went. Mr. D'W. asked if the drawback on refined sugar injured the market for the grower of the raw sugar in Louisiana? He thought he must be answered in the negative—and, if it did not, how would the drawback on cordage injure the market for the grower of hemp? The imported hemp having paid the duties, is naturalized, is domesticated, and made harmless; it is domestic hemp, making one common stock with the home grown article; and he contended it made no difference to the revenue whether the cordage exported and obtaining a drawback, was made of the imported or the home grown hemp—he said it made no difference to the revenue; you have, said he, a common stock of the imported and home growth, and if it be more than the consumption of your country, you may as well allow the surplus to be exported in cordage, by giving back the duties on the hemp, so far as

APRIL, 1822.

Proceedings.

SENATE.

it has any effect on your revenue, as to have it laying over, to be in the way of your new importations, and your new crop of home growth. He did not advance these ideas in regard to the revenue, as an argument in support of the bill, but merely to satisfy those gentlemen who feared the revenue would be injured by it. When, however, said he, your home growth shall be equal, or exceed your consumption, and you find the drawback on cordage equal to, or exceeding the duties on the imported hemp, then, to be sure, it may be time to think of refusing or reducing the drawback, unless it should be your policy to consider it as a bounty on the home grower of hemp, and allow it for that purpose. Hemp is an article which cannot be exported in its raw state, there being no market, unless carried back to Europe from where it came.

Mr. D'W. said, he hoped for an opportunity of giving some further views on the bill, should its policy be further questioned.

Mr. TALBOT contended that it would be impossible for us to import hemp from Russia, manufacture it here, and then compete with Russia in the sale of the article in the foreign market; that this bill would produce no good effect, but that, if it should have any practical operation, it would be one detrimental to the revenue; that at present Russia hemp was preferred in foreign markets, from its superior beauty, &c., and, instead of discouraging the home product, it ought to be promoted, and the duty on foreign hemp increased. He concluded by moving to postpone the bill to Thursday next, to wait the progress of a bill in the other House, and to allow time for examining the present proposition with some attention.

Mr. MORRIL confessed that, if he believed the effects predicted by Mr. D'WOLF from this measure would result from it, he would readily vote for it; but he was of a contrary opinion, and believed that it would discourage the production of domestic hemp, and therefore be injurious to the agricultural interest, &c.

Mr. OTIS made a few remarks in favor of an earlier consideration of this bill than Thursday next; and expressed his opinion in concurrence with the views offered in its favor by Mr. D'WOLF, which views he conceived to possess much weight, and to be entitled to consideration.

The bill was then postponed to Monday next, the motion having been varied to that day.

FRIDAY, April 5.

Mr. SMITH, from the Committee on the Judiciary, to which was referred the bill to alter the times and places of holding the district court in the district of New Jersey, reported the same without amendment.

Mr. THOMAS, from the Committee on Public Lands, to which was referred the bill, entitled "An act for the relief of James McFarland," reported the same without amendment.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of William E. Meek, reported the same without amendment.

Mr. HOLMES, of Maine, from the Committee on Finance, to which was referred the bill, entitled "An act to authorize the Secretary of the Treasury to exchange stock bearing an interest of five per cent. for certain stocks bearing an interest of six and seven per cent." reported the same without amendment.

On motion by Mr. HOLMES, of Maine, the document accompanying the said bill, containing a statement of the public debt, with calculations of the operation of the Sinking Fund, referred to in the letter of the Secretary of the Treasury of December 25, 1821, was ordered to be printed for the use of the Senate.

Mr. JOHNSON, of Kentucky, gave notice that at the next meeting of the Senate he should ask leave to introduce a bill for the relief of Thomas Pendergrass.

The resolution for amending the forty-first rule of the Senate, regulating the printing of documents, was read the second time, and considered as in Committee of the Whole; and, no amendment having been made thereto, it was reported to the Senate, and ordered to be engrossed and read a third time.

The Senate resumed the consideration of the motions of Mr. HOLMES of the 2d instant, for requesting the President of the United States to communicate to the Senate certain information relative to the Navy of the United States; and the same having been modified, were agreed to, as follows:

Resolved, That the President of the United States be requested to communicate to the Senate the expenses of building each vessel of war built at each navy yard or other place in the United States, authorized by the act of the 2d January, 1813, and the acts supplementary thereto; distinguishing, in each vessel so built, the expenses of timber, iron, copper, cordage, hemp, cloth, and other materials; the amount paid to agents or superintendents, specifying their names; the amount paid for labor, particularizing the sums paid to carpenters, mast makers, boat builders, block makers, blacksmiths, armorers, caulkers, gun-carriage makers, sawyers, sail makers, and riggers, and other laborers.

Resolved, That the President of the United States be requested to communicate to the Senate the names, number, and grade of the officers, and the number of men, belonging to the Navy, employed in and attached to each navy yard and each naval station in the United States, with the services each has performed, and the compensation each has received in pay, rations, and other emoluments, during the two last years ending on the first of January last, including the value of the benefit to any officers for the use or improvement of any public property.

Resolved, That the information required by the above resolutions be furnished to the Senate at the commencement of the next session of Congress.

The Senate then resumed the consideration of the bill to amend the act granting the right of pre-emption to certain settlers in the State of Louisiana, and took up the amendments made yesterday in the Committee of the Whole. In considering these amendments, and the merits of the bill generally, some debate arose, in which

MESSRS. JOHNSON, of Louisiana, LOWRIE, LANMAN, BROWN, of Louisiana, and WILLIAMS, of Mississippi joined. The amendments were all finally agreed to, and the bill was ordered to be engrossed for a third reading.

The engrossed bills for the relief of the sureties of Joseph Pettipool, and for the relief of Joseph C. Boyd, were severally read the third time, passed, and sent to the House of Representatives.

RELIEF OF LAND PURCHASERS.

The Senate took up the bill supplementary to the act of last session, "for the relief of the purchasers of public lands," (to extend the time to September, 1822, in which the purchasers may avail themselves of the provisions of that act.)

Mr. THOMAS explained the reasons which induced the Land Committee to report this bill, and the considerations which rendered its passage reasonable and proper.

Mr. CHANDLER offered a few remarks adverse to the policy of legislating any further on this subject.

MESSRS. BROWN, of Ohio, JOHNSON, of Kentucky, BARTON, and WALKER, severally advocated the justice and expediency of this bill, urging the shortness of the time allowed, after the passage of the late act, for the purchasers to make the necessary application to the land offices, the injustice of excluding a great portion of them, who were actually unable to make application in time, after the necessary instructions and forms reached the different land offices, in preparing and forwarding which much of the time allowed by the act was consumed, and leaving very little for a compliance with the law, by those for whose relief it was intended, &c.

On motion of Mr. KING, of New York, who wished gentlemen to have time to compare the provisions of this bill with those of the act of last session, the bill was postponed to Tuesday next.

LAND TITLES IN MISSOURI.

The Senate then resumed the consideration of the bill to enable the holders of incomplete French and Spanish land titles in the State of Missouri, to institute proceedings to try the validity thereof, and to obtain complete titles for the same when found valid.

Several amendments had been made to this bill when in Committee of the Whole, which now presented themselves for the concurrence of the Senate. Some of those amendments, and modifications proposed to them, gave rise to a good deal of debate, in the course of which the merits of the bill were incidentally discussed. Those gentlemen who engaged in the debate, and were most active in settling its provisions, were Messrs. BARTON, EATON, BENTON, CHANDLER, TALBOT, BROWN of Louisiana, BARBOUR, LOWRIE, OTIS, LANMAN, WILLIAMS of Mississippi, VAN BUREN, VAN DYKE, EDWARDS, KING of New York, and THOMAS. The amendments were ultimately got through with, and the bill was ordered to be engrossed and read a third time without opposition.

The Senate adjourned to Monday.

MONDAY, April 8.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to a resolution of the Senate of the 21st of December, 1821, containing a statement exhibiting the names and compensation of deputies and clerks who are or have been employed in the offices of collectors, naval officers, and surveyors of the customs, during the years 1816, 1817, 1818, 1819, 1820, and 1821, as far as the accounts of those officers furnish the data necessary for such statement; and the report was read.

Mr. RODNEY submitted the following motion for consideration:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of fixing a light vessel at or near the shoal called the Brown, in the bay of Delaware; or at such other place or places as may render the navigation thereof more safe and convenient.

On motion by Mr. ELLIOTT, sundry authentic letters between the Governors of Georgia and the War Department, with others from various persons, in relation to Indian depredations on Georgia in the years 1792, 1793, and 1794, communicated by the Governor of Georgia to the Senators from that State, were referred to the Committee on Military Affairs.

The resolution to amend the 41st rule of the Senate, relative to the printing of documents, was read a third time and passed, as follows:

Resolved, That the 41st rule of the Senate be amended to read as follows:

"No paper or document shall be printed for the use of the Senate without special order."

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of the representatives of John Donnelson, Thomas Carr, and others; and the further consideration thereof was postponed to, and made the order of the day for, Wednesday next.

A message from the House of Representatives informed the Senate that the House concur in the resolution of the Senate fixing the time for the adjournment of Congress, with an amendment; in which amendment they request the concurrence of the Senate. They have passed a bill, entitled "An act for the relief of John Thomas;" also a bill, entitled "An act to revive and continue in force certain acts concerning the allowance of pensions upon a relinquishment of bounty lands; in which two bills they request the concurrence of the Senate.

Mr. THOMAS, from the Committee on Public Lands, made an unfavorable report on the petition of the mayor, aldermen, and inhabitants, of the city of New Orleans, (who pray the grant of a piece of public ground in said city for the purpose of erecting a market-house thereon,) and the report was read.

The Senate then resumed, in Committee of the Whole, the bill providing for the ascertainment of the land titles in East and West Florida, and spent some time in discussing its provisions. The committee got through the bill, but before the

APRIL, 1822.

Proceedings.

SENATE.

amendments were reported to the Senate, it was laid over until to-morrow.

The engrossed bill to enable the holders of incomplete French and Spanish titles to lands within Missouri, to institute proceedings to try the validity thereof, and to obtain complete titles for the same when found to be valid; and the engrossed bill to amend the act granting the right of pre-emption to certain settlers in the State of Louisiana, were severally read the third time, passed, and sent to the House of Representatives for concurrence.

Mr. RUGGLES, from the Committee of Claims, reported a bill for the relief of Clarence Mulford; which was read.

Mr. JOHNSON, of Kentucky, having obtained leave, introduced a bill for the benefit of Thomas Pendergrass; which was twice read and referred.

The Senate resumed, in Committee of the Whole, the consideration of the bill to allow a drawback on cordage manufactured from foreign hemp. On this bill a debate arose, which continued till four o'clock, when, without taking any question, the Senate adjourned.

TUESDAY, April 9.

The two bills brought up yesterday from the House of Representatives, for concurrence, were read, and severally passed to the second reading.

The bill, entitled "An act for the relief of John Thomas," was read the second time by unanimous consent, and referred to the Committee on Military Affairs.

The bill for the relief of Clarence Mulford was read the second time.

The Senate proceeded to consider the motion of the 8th instant, for instructing the Committee on Commerce and Manufactures to inquire into the expediency of fixing a light vessel in the bay of Delaware; and agreed thereto.

The Senate proceeded to consider the report of the Committee on the Public Lands, on the petition of the mayor, aldermen, and inhabitants of the city of New Orleans; and on motion by Mr. JOHNSON, of Louisiana, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to continue in force and perpetuate an act passed on the 20th day of April, in the year 1818, entitled "An act supplementary to an act entitled 'An act to regulate the collection of duties on imports and tonnage,' passed the 2d day of March, 1799;" and on motion by Mr. HOLMES, of Maine, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the building a lighthouse at Stonington Point, in the State of Connecticut, together with the amendments reported thereto by the Committee on Commerce and Manufactures; and the bill having been amended, it was reported to the Senate accordingly; and on motion by Mr. FINDLAY, it was laid on the table.

The Senate proceeded to consider the amendment of the House of Representatives to the reso-

lution fixing the time for the adjournment of Congress; and concurred therein.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the better organization of the district court of the United States within the State of Louisiana; and on motion it was laid on the table.

The Senate proceeded to consider the bill to prevent war among the Indian tribes within the territorial limits of the United States; and on motion it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to repeal the fourteenth section of "An act to reduce and fix the Military Peace Establishment," passed the 2d day of March, 1821; and after debate the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act granting certain privileges to steamships and vessels owned by incorporated companies; and Mr. OTIS having proposed an amendment thereto, the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to establish on the Western waters a national armory; and Mr. HOLMES, of Maine, having proposed an amendment thereto, the further consideration thereof was postponed until Thursday next. Whereupon, on motion by Mr. WALKER, the President of the United States was requested to lay before the Senate any report or information which may be in his possession as to the most eligible site on the Western waters for the erection of a national armory.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of James Morrison; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate proceeded to consider the bill supplementary to an act, entitled "An act to set apart and dispose of certain lands for the encouragement of the cultivation of the vine and olive;" and it was laid on the table.

Mr. BARTON, from the Committee of Claims, made an unfavorable report on the petition of J. C. Oldfield, of Baltimore; which was read.

The Senate resumed the consideration of the bill to allow drawback on cordage manufactured from foreign hemp, and, without further debate, the question was taken on ordering the bill to be engrossed and read a third time, and was decided in the negative—yeas 11, nays 17.

So the bill was rejected.

The following bills were successively considered and discussed in Committee of the Whole, and severally ordered to be read a third time, viz: The bill to establish the district of Bristol, and to annex the towns of Kittery and Berwick to the district of Portsmouth; the bill for the relief of Alexander Humphrey and Sylvester Humphrey; the bill supplementary to the act of the last session for the relief of the purchasers of the public lands; the bill for the relief of Thomas W. Ba-

SENATE.

Proceedings.

APRIL, 1822.

cot; the bill for the relief of John Anderson; the bill for the relief of Jonathan N. Bailey; the bill for the relief of Gad Worthington; the bill for the relief of Solomon Porter, Jr.; the resolution directing the purchase of five copies of Tanner's new American Atlas; a bill to fix the limits of the port of entry and delivery for the district of Philadelphia; and a bill to remit the duties on a sword imported for Captain Thomas Macdonough, of the United States Navy.

WEDNESDAY, April 10.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to which was referred the bill for the benefit of Thomas Pendergrass, reported the same, with an amendment, which was read.

Mr. WILLIAMS, of Tennessee, from the same committee, to which was referred the bill, entitled "An act for the relief of John Thomas," reported it without amendment.

Mr. RODNEY presented the petition of Joseph Forrest, of the City of Washington, praying compensation for the loss of a certain schooner, called the William Yeaton, chartered in the month of May, 1812, to the agent of the United States, to take a cargo of provisions from New York to Lagaira, which was seized and condemned by the Spanish Government; the petition was read, and referred to the Committee of Claims.

On motion, by Mr. RUGGLES, the Committee of Claims were instructed to inquire into the expediency of providing by law for the payment of the claim of David Cooper, of the Michigan Territory, for property taken for the use of the army during the late war.

Mr. BENTON, from the Committee on Public Lands, reported a bill for the relief of John Baptist Belfort, and others. The bill was read, and passed to the second reading.

Mr. EATON, from the Committee on Public Lands, reported a bill for the relief of the representatives of Elisha Winter and William Winter. The bill was read, and passed to the second reading.

The bill, entitled "An act to revive and continue in force certain acts concerning the allowance of pensions upon a relinquishment of bounty lands," was read the second time, and referred to the Committee on Pensions.

The bill, supplementary to the act, entitled "An act for the relief of the purchasers of public lands prior to the 1st day of July, 1820," was read a third time, and passed.

The bill for the relief of Alexander Humphrey and Sylvester Humphrey, was read a third time, and passed.

The bill for the relief of Thomas Bacot was read a third time, and passed.

The resolution directing the purchase of five copies of Tanner's New American Atlas, was read a third time, and passed.

The bill, entitled "An act to amend the act, entitled 'An act to establish the district of Bristol, and to annex the towns of Kittery and Berwick to

the district of Portsmouth,' passed February 25, 1801," was read a third time, and passed.

The bill, entitled "An act to fix the limits of the port of entry and delivery for the district of Philadelphia," was read a third time, and passed.

The bill, entitled "An act for the relief of Jonathan N. Bailey," was read a third time, and passed.

The bill, entitled "An act to remit the duties on a sword imported for Captain Thomas Macdonough, of the United States' Navy," was read a third time.

The bill, entitled "An act for the relief of Solomon Porter, junior," was read a third time, and passed.

The bill, entitled "An act for the relief of John Anderson," was read a third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of Government for the year 1822," in which bill they request the concurrence of the Senate.

The bill was twice read, by unanimous consent, and referred to the Committee on Finance.

The bill from the other House, for the relief of Gad Worthington, was read a third time, and, (after some debate, on the part of Messrs. HOLMES, of Maine, MORRIL, LOWRIE, BENTON, LANMAN, VAN BUREN, MACON, WALKER, VAN DYKE, and BARTON, in which the principle of making allowance to officers, in the settlement of their accounts, for public money, of which they may be robbed, and of which this claim was one, was discussed at some length,) the bill was passed—ayes 23.

The Senate then took up, in Committee of the Whole, the bill supplementary to the act for the encouragement of the cultivation of the vine and olive in Alabama.

Mr. KING, of Alabama, explained the circumstances in which the original act originated, and the reasons which now rendered the passage of this supplementary bill equitable and expedient. Mr. WALKER made some remarks to the same effect; after which the bill was reported to the Senate, and was ordered to be engrossed and read a third time, without objection.

The Senate then took up the bill to continue in force, and perpetuate, the act of 1818, supplementary to the acts providing for the collection of duties on imports and tonnage; and, having considered the same in Committee of the Whole, the bill was ordered to be engrossed for a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and deciding, controversies between States; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for ascertaining claims and titles to lands within the territories of East and West Florida; and the bill having been amended, on motion, it was laid on the table.

APRIL, 1822.

Proceedings.

SENATE.

JOHN J. C. OLDFIELD.

The Senate took up the report of the Committee of Claims, unfavorable to the petition of John J. C. Oldfield, of Baltimore. [The petitioner was the innocent purchaser of two drafts, issued by the Treasurer of the United States, to the Paymaster General, in favor of two widows for pensions, which drafts, it was afterwards found, were issued on the authority of fraudulent certificates and papers, forged for the purpose, and that the pretended endorsement of these widows on the drafts were forged. Mr. Oldfield, the purchaser of these drafts, prays that the Government will pay them.]

Mr. EATON, deeming the claim on the Government an equitable one, moved to reverse the report, so as to give it a character favorable to the prayer of the petitioner, and supported his motion with a number of remarks. Messrs. BARTON, and VAN DYKE, (members of the Committee of Claims,) opposed this motion, and spoke to show that there was no obligation on the part of the Government, in law or equity, to allow the claim. Mr. LLOYD argued to show that the claim was a fair one, and ought to be paid. Mr. EATON, added further arguments in favor of the claim. Messrs. LANMAN and RODNEY replied to Mr. E., and advocated the other side of the question. After some further debate, in which Messrs. LLOYD, D'WOLF, EATON, and VAN DYKE, took part, the motion to reverse the report was negatived without a division, and the report was agreed to.

THURSDAY, April 11.

Mr. DICKERSON presented the petition of James Greene & Co., praying the imposition of a duty on imported copperas. The petition was read, and referred to the Committee on Commerce and Manufactures.

Mr. DICKERSON, from the Committee on Commerce and Manufactures, to which was referred the bill, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," reported the same without amendment.

Mr. RUGGLES submitted sundry documents relating to the claim of the representatives of William Macomb; which were read, and referred to the Committee of Claims.

Mr. HOLMES, of Maine, from the Committee on the Judiciary, to which was referred the bill, entitled "An act to alter the times of holding courts in the western district of Virginia, and for other purposes," reported the same without amendment.

The bill for the relief of John Baptist Belfort, and others, was read the second time.

The bill for the relief of the representatives of Elisha and William Winter, was read the second time.

The Senate, resumed, as in Committee of the Whole, the consideration of the bill for the relief of the representatives of John Donnelson, Thomas Carr, and others; and, on motion, by Mr. THOMAS, it was laid on the table.

A message from the House of Representatives informed the Senate that the House have passed a

bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1822;" a bill, entitled "An act making appropriations for the Public Buildings;" and, also, a bill, entitled "An act making an appropriation to defray the expenses of missions to the independent nations on the American continent;" in which bills they request the concurrence of the Senate.

The said three bills were read, and severally passed to the second reading.

The bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1822; and, also, the bill, entitled "An act making appropriations for the Public Buildings;" were read the second time, by unanimous consent, and respectively referred to the Committee on Finance.

The bill, entitled "An act making an appropriation to defray the expenses of missions to the independent nations on the American continent," was read the second time, by unanimous consent, and referred to the Committee on Foreign Relations.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to repeal the fourteenth section of "An act to reduce and fix the Military Peace Establishment," passed the 2d day of March, 1821; and it was laid on the table.

On motion of Mr. THOMAS, the Committee on Public Lands were discharged from the further consideration of the petition of the General Assembly of Indiana, praying the grant of five or six thousand acres of untillable land, contiguous to Vincennes, to be used as a town common.

On motion of Mr. NOBLE, the Committee on Pensions were discharged from the further consideration of the petitions of Moses Smith, of Chester Griswold, and of Sarah McKay, for pensions, and of Amos Potter, and others, in behalf of Daniel Lacy, a pauper.

Mr. RUGGLES from the Committee of Claims, reported a bill for the relief of David Cooper, which was read.

The following engrossed bills were read a third time, passed, and sent to the House of Representatives for concurrence, viz: The bill supplementary to the act to set apart and dispose of certain lands, for the encouragement of the cultivation of the vine and the olive; the bill further to continue in force and perpetuate the act of April, 1819, supplementary to the act of 1798, "to regulate the collection of duties on imports and tonnage."

On motion of Mr. EATON, the Senate resumed the consideration, in Committee of the Whole, of the bill for ascertaining claims and titles to land within the Territories of East and West Florida; and, after spending a considerable time in further discussing the details of the bill, it was laid on the table.

The Senate spent some time, also, in considering the bill to authorize the building of certain light-houses, (at Stonington Point, &c.,) and discussing amendments offered to it, but did not get through the bill.

Mr. LOWRIE, after a few remarks, explanatory

SENATE.

James Morrison.

APRIL, 1822.

of his reasons for the motion, moved to reconsider the vote of the Senate of Tuesday last, by which the bill proposing to allow drawback on cordage manufactured from hemp, was rejected; and the question being put, on reconsidering the same, it was decided in the affirmative, ayes 16, noes 11; and the bill was then laid on the table.

The report of the Committee on Public Lands, unfavorable to the petition of William C. Jones, was taken up on motion of Mr. HOLMES, of Mississippi, and agreed to.

JAMES MORRISON.

The Senate then took up, in Committee of the Whole, the bill for the relief of James Morrison, (directing the accounting officers of the Treasury Department to allow James Morrison, late deputy quartermaster general, the sum of \$10,000, which was advanced by Thomas H. Pindall, an assistant deputy quartermaster general under the said Morrison, to Thomas Buford, late deputy commissary general; also, the sum of \$289 99, interest, paid by said Morrison for sums of money obtained upon his individual credit for the public service.)

A long debate took place on the merits of the claim, and a minute investigation of the circumstances on which it was founded; but, before any question was taken, the Senate adjourned.

FRIDAY, April 12.

Mr. STOKES submitted the following motion for consideration:

Resolved, That the Committee on Commerce and Manufactures be instructed to inquire into the expediency of giving the assent of Congress to an act of the General Assembly of North Carolina, entitled "An act to incorporate a company entitled the Roanoke Inlet Company, and for other purposes.

Mr. STOKES also submitted the following motions for consideration:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Asheville, in North Carolina, by Waynesville, Lovesville, on Scott's creek, the Public Square on Tennessee river, Rabun Courthouse, in Georgia, to Habersham Courthouse.

Resolved, That the said committee be instructed to inquire into the expediency of discontinuing the post route from Waynesville, in North Carolina, to Housontonville, in South Carolina.

Mr. STOKES presented the petition of James Gatling, and others, of North Carolina, praying a post route. The petition was read, and referred to the Committee on the Post Office, &c.

On motion by Mr. RUGGLES, the Committee of Claims to which was referred the petition of Return J. Meigs, agent for the United States in the Cherokee nation, were discharged from the further consideration thereof.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of sundry citizens of Baltimore;" a bill, entitled "An act for the relief of certain distillers within the sixth collection district of Pennsylvania;" and, also, a

bill, entitled "An act for the relief of B. H. Rand;" in which bills they request the concurrence of the Senate.

The three bills were read, and severally passed to the second reading.

The first bill was read the second time, by unanimous consent, and referred to the Committee of Claims.

The other two were, also, severally read the second time, by unanimous consent, and respectively referred to the Committee on Finance.

The bill for the relief of David Cooper was read the second time.

Mr. OTIS presented the petition of James Bancroft, praying a pension. The petition was read, and referred to the Committee on Pensions.

The Senate then, on motion of Mr. WILLIAMS of Tennessee, resumed the consideration of the bill to repeal the 14th section of the act of last session to reduce the Military Peace Establishment, (which 14th section enacted that the system of "General Regulations for the Army," compiled by Major General Scott, be approved, and adopted for the government of the Army and the Militia when in service.)

The bill was a good deal discussed when before the Senate on yesterday; and no amendment being now offered, nor any further remarks, it was ordered to be engrossed for a third reading.

The Senate then resumed, in Committee of the Whole, the bill for the relief of James Morrison a deputy quartermaster general in the late war.

Some further debate took place on this bill, in which it was supported by Mr. BENTON; and incidental points, (among them a motion made by Mr. BARTON to recommit the bill for the ascertainment of certain facts,) discussed by Messrs. HOLMES of Mississippi, CHANDLER, BARTON, KING of New York, TALBOT, VAN BUREN, BROWN of Ohio, VAN DYKE, and LANMAN, after which the bill was recommitted with instructions to report the facts specially.

The Senate took up the bill for the relief of the heirs of John Donnelson, Thomas Carr, Stephen Heard, William Downs, and Joseph Martin, authorizing them, severally, to enter five thousand acres of land, at any time within two years from the passing of this act in any land office in either of the States of Mississippi or Alabama, being the amount of a grant made to them by a resolution of the Legislature of the State of Georgia in the year 1786.

Considerable discussion took place on this bill, in which Messrs. EATON, ELLIOTT, OTIS, LANMAN, LLOYD, and WALKER, principally participated; after which the bill was postponed to Monday.

Mr. VAN DYKE, from the select committee to which was referred the memorial of Thomas Robinson, in his own right and on behalf of the other children and heirs of General Thomas Robinson, late of Newcastle county, in the State of Delaware, deceased, who was one of the sureties of Sharp Delaney, deceased, formerly collector of the customs at the port of Philadelphia, made a report accompanied by a resolution, that the committee

APRIL, 1822.

City of Washington.

SENATE.

be discharged from the further consideration of said subject during the present session of Congress, and that the memorial and documents lie upon the table.

Mr. RUGGLES, from the Committee of Claims, to which was referred the bill, entitled "An act for the relief of Cornelius Huson," reported the same, with an amendment, which was read.

CITY OF WASHINGTON.

The Senate then, on motion of Mr. BARBOUR, took up, in Committee of the Whole, the bill to authorize the Corporation of the City of Washington to drain the low ground, on and near the public reservations, and to improve and ornament certain parts of said reservations.

Mr. BARBOUR stated the reasons which had induced the Committee on the District of Columbia to report this bill; those which rendered its passage proper and necessary; the considerations which obviated any objections which were anticipated, &c.; and concluded by moving an amendment to the bill providing for trying, by the district court, (with the right to an appeal to the Supreme Court,) any right of the original proprietors which may be affected by the bill; which amendment was agreed to. The bill was then reported to the Senate.

On the question of concurring in the amendment, some discussion took place on the part of Messrs. EATON, LANMAN, LLOYD, BARBOUR, and KING of New York, turning chiefly on the feasibility of the claim which was set up by the representatives of the original proprietor of the ground. The amendment was ultimately concurred in, without a division, and the bill was ordered to be engrossed and read a third time, without objection or opposition.

Mr. KING, of New York, submitted the following motion for consideration:

Resolved, That the Architect of the Public Buildings be in future appointed by the President of the United States, with the advice and consent of the Senate; and that he possess the powers and perform the duties of the Superintendent of the Public Buildings.

The Senate adjourned to Monday.

MONDAY, April 15.

On motion, by Mr. RUGGLES, the Committee of Claims, to which was referred the memorial of a number of the inhabitants of the counties of Mobile and Baldwin, in the State of Alabama, praying compensation for certain losses sustained during the late war with Great Britain, were discharged from the further consideration thereof.

Mr. WALKER presented the petition of Edwin Lewis, of Alabama, praying the right of pre-emption. The petition was read; and referred to the Committee on Public Lands.

Mr. RUGGLES, from the Committee of Claims, to which was referred the bill, entitled "An act for the relief of James May, and the representatives of William Macomb," reported the same without amendment.

Mr. BARTON, from the Committee of Claims, to

which was recommitted the bill for the relief of James Morrison, of Lexington, Kentucky, with instructions to make a special report of the facts, made a report accordingly, which was read.

The Senate proceeded to consider the motion of the 12th instant, for instructing the Committee on Commerce and Manufactures to inquire into the expediency of giving the assent of Congress to a certain act of the State of North Carolina; and agreed thereto.

The Senate proceeded to consider the motions of the 12th instant, for instructing the Committee on the Post Office and Post Roads to inquire into the expediency of establishing certain post routes; and agreed thereto.

The Senate proceeded to consider the motion of the 12th instant, in relation to the Architect of the Public Buildings; and, having agreed thereto, on motion, by Mr. KING, of New York, it was referred to the Committee on the Judiciary.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with a resolution of the Senate, requesting the President of the United States to lay before that House any report, or information which may be in his possession, as to the most eligible situation on the Western waters for the erection of a national arsenal, I herewith transmit a report from the Secretary of War, containing all the information on that subject, in the possession of the Executive.

JAMES MONROE.

WASHINGTON April 15, 1822.

The Message and report were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill allowing a drawback on the exportation of cordage manufactured in the United States from foreign hemp, and it was ordered to lie on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to establish on the Western waters a national armory; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to amend an act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, approved 30th March, 1802;" and it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to alter the times and places of holding the district court in the district of New Jersey; and it was laid on the table.

Mr. WALKER submitted the following motion for consideration:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post road from Pulaski, in Tennessee, by Athens, Triana, and Somerville, to Blountsville, in Alabama.

The Senate resumed, as in Committee of the Whole, the consideration of the bill entitled "An act supplementary to the acts to provide for certain

SENATE.

Georgia Militia Claims.

APRIL, 1822.

persons engaged in the land and naval service of the United States in the Revolutionary war; and it was laid on the table.

The report made by Mr. VAN DYKE, on Friday last, from a select committee, unfavorable to the petition of Thomas Robinson and others, heirs of the late General T. Robinson, was taken up and agreed to.

The Senate resumed the consideration of the bill to authorize the building of a lighthouse at Stonington Point, and (as it had been amended on the motion of Mr. MACON) one also at or near the port of Ocracoke, in North Carolina.

Several other amendments were made to the bill providing piers, &c., in different positions, and some propositions were rejected. Among the unsuccessful motions to amend the bill was one by Mr. R. M. JOHNSON, of Kentucky, who proposed to add an appropriation of \$20,000 for removing obstructions at the falls of the Ohio river; which motion was rejected, without a division, and the bill was ordered to be engrossed for a third reading.

The engrossed bill to repeal the 14th section of the act of last session, to reduce the Military Establishment, was read the third time, passed, and sent to the House of Representatives for concurrence.

The engrossed bill to enable the Corporation of Washington City to fill up and drain the low grounds on and near the public reservations, and to improve and ornament parts of said reservations, was read the third time; and then, on the motion of Mr. KING, of New York, (who desired some additional information on the subject, which he specified,) the bill was laid on the table.

The bill granting to the heirs of John Donnellson and others five thousand acres of land, under a resolution of the State of Georgia of 1786, passed through a Committee of the Whole, where it was amended by adding the name of John Sevier, and was then ordered to be engrossed for a third reading.

The bill from the House of Representatives, granting certain privileges to incorporated steamship companies, was also considered in Committee of the Whole, and, after an ineffectual attempt to amend it so as to extend the privileges to companies other than those incorporated, it was ordered to lie on the table.

The bill from the other House, restoring to the ship Diana the privileges of a sea-letter vessel, was discussed in Committee of the Whole, and then postponed until to-morrow.

The bill for the relief of the legal representatives of Greenberry H. Murphy, late deputy marshal of the western district of Pennsylvania, (whom the bill proposes to indemnify for judgment and costs recovered against him for collecting two militia fines,) was taken up in Committee of the Whole; and, being explained by Mr. WILLIAMS, of Tennessee, the bill was ordered to be engrossed for a third reading.

GEORGIA MILITIA CLAIMS.

Mr. ELLIOTT, from the Military Committee, made the following report, which was ordered to be printed.

The Military Committee, to whom was referred the resolution instructing them to inquire into the expediency of providing for the final settlement of the militia claims of the State of Georgia, for services rendered under orders of the President of the United States, during the years 1792, 1793, and 1794, report:

That, in the examination of this subject, sundry authentic letters and other documents were submitted to their inspection; among which, the following, being deemed the most material, are here so arranged and condensed as to present to the Senate, with the least possible detail, the merits of the case, viz:

A letter from the Governor of Georgia to the Secretary of War, dated 22d of May, 1792, communicating to the Department official information of the hostile disposition of the Creek and Cherokee Indians, as manifested in the murders which they had just committed, and the houses they had destroyed by fire. After stating these facts, the Governor proceeds: "When you maturely deliberate on the present position of the federal troops, and contemplate the orders to that effect, you will doubtless foresee a series of complicated difficulties that may attend the Army in the event of general hostilities. The movement of the Army ought to be governed by circumstances; and, whilst it is to remain subject to orders issued at the remote distance of one thousand miles, I cannot help feeling for the situation of the defenceless settlers scattered over an extensive frontier of at least three hundred miles. The savage depredations that have taken place for near three years past have been considerably to the westward of the Rock Landing, from which, to the river Ingalo, there is a frontier of about one hundred and thirty miles exposed to Indian ravages. When I point out this as a defenceless ground, I do not leave out of view that portion of the frontier from the river St. Mary's to the Rock Landing; for, should a pressure take place to the westward, the Indians have sufficient sagacity to retaliate on the settlers on the lower frontiers. From these considerations, additional exertions towards a general defence will be indispensable."

On the 15th of June, 1792, Major Richard McCall, the commandant of the federal troops in Georgia, thus addressed the Governor of the State: "I have just returned from the Big or High Shoals of Oconee. On my way up I found the settlements breaking. At this particular crisis, the settlers neglecting their crops will, of course, be an injury to the frontiers. I have, therefore, in consequence of your Excellency's permission, called into service some militia. The reports of Captains Barnet and William Strong, my letter to General Clark, and my instructions to the different officers, will show the occasion of the measure."

The Governor of Georgia was informed by letter from Andrew Pickens, dated at Hopewell, 12th September, 1792, that the Cherokee Indians, instigated by Spanish agents, had manifested an unfriendly disposition, and that four towns had actually determined on war; that the chiefs of the Creek nation had not returned from Pensacola, but were soon expected with a large supply of ammunition, at which time it was expected a general war would commence between that nation and the United States. This letter was accompanied with one from Captain R. B. Roberts, commanding the United States troops at Fort Matthews, Big Shoals of Oconee, informing the Governor of the contents of a letter received by him from Mr. Shaw, the superintendent of the Cherokee nation, which induced him to look for a predatory war, if no-

APRIL, 1822.

Georgia Militia Claims.

SENATE.

thing more serious. "The weakness of this post," continues the Captain, "although it is my duty to defend it to the last, is such as to render its tenure very precarious; the strength of it only twenty-four privates! The frontiers here are truly deplorable. No ammunition, no authority, and no settled mode adopted by Government for their protection. As I am on the spot, I hope your Excellency will not imagine I presume to dictate; but really, sir, if the militia are not called out immediately, in force, this settlement will be totally broken up, and dreadful consequences will ensue." To this letter the Governor replied on the 18th of September, 1792, "that the commandant of the federal forces had long since been served with a provisional arrangement of the militia, by which it will appear that ample provision has been made by the Government for any events that have as yet arisen; and, in case emergencies should require additional aid, to the one-third of the militia, under orders agreeably to the aforesaid arrangement, there shall be no delay on my part in affording every support that the situation of the State will admit." In confirmation of this statement, copies of general orders of the years 1790 and 1792 are found among the papers referred to the committee for examination. By these, the militia of the State are classed, and held ready for active operations whenever their services should be required.

On the 27th of October, 1792, the Governor of Georgia was informed by the Secretary of War of the determination of five towns of the Cherokees, consisting of from three to five hundred warriors, and aided by the Upper Creeks, to commence hostilities against the United States. "But," adds the Secretary, "as Congress is on the eve of their session, this information will be communicated to them. The Constitution having invested that body with the powers of war, no offensive operations can be taken until they shall be pleased to authorize the same. At present, the information does not warrant the conclusion that more of the Cherokees than five towns, and the Creeks before mentioned, are for hostilities; but when the flames of war are lighted up, it will be difficult effectually to restrain them within narrow limits. If the information which you may receive shall substantiate clearly any hostile designs of the Creeks against the frontiers of Georgia, you will be pleased to take the most effectual measures for the defence thereof as may be in your power, and which the occasion may require." On the 18th of November, 1792, the Governor was informed by Major Henry Gaither, of the federal troops, that, believing it to be necessary, in consequence of his permission to do so, he had called into service two additional troops, one from Wilkes county, and the other from the county of Elbert.

In a letter of the 29th of April, 1793, the Secretary of War was thus addressed by the Governor of Georgia: "From depositions of Benjamin Harrison and Francis Pugh, and from the information of Joseph Dabb, there is little expectation of avoiding a general war with the Creek and Cherokee Indians. Blood has been spilt in every direction on the extended frontier of this State, and one man killed in South Carolina." After stating the plans he had adopted for temporary defence, he adds: "I shall follow this plan of operation until measures be taken by the President for the better protection of the unfortunate settlers on this exposed frontier. If I find the pressure become great, the opposition must keep pace with the several emergencies."

On the 8th of May, 1793, his Excellency again wrote the Secretary of War that, "such was the havoc and carnage making by the savages in every direction on our frontiers, retaliation by open war became the only resort; that the horrid barbarities recently committed (some recitals of which were enclosed) had compelled him to cause the additional aid of six troops of horse to be drawn into service." On the 30th of May, 1793, the Secretary of War acknowledged the receipt of the several letters which had been addressed by the Governor to that Department, and adds, "that, from considerations of policy, at this critical period, relative to foreign Powers, and the pending treaty with the Northern Indians, it is deemed advisable to avoid for the present offensive expeditions into the Creek country; but, from the circumstances of the late depredations on the frontiers of Georgia, it is thought expedient to increase the force in that quarter for defensive purposes. The President, therefore, authorizes your Excellency to call into, and keep in service, in addition to the regular force stationed in Georgia, one hundred horse and one hundred militia foot, to be employed, under the orders of Lieutenant Colonel Gaither, in repelling inroads, as circumstances may require." After directing the manner of forming and employing this force, the Secretary concludes thus: "The case of a serious invasion of Georgia by large bodies of Indians must be referred to the provisions of the Constitution; but the proceeding with efficacy in future (the necessity of which appears but too probable) requires absolutely that no unnecessary expense shall be incurred in the meantime." In reply to the Governor's letter of May 8th, the Secretary of War, on the 10th of June, says, "The State of Georgia being invaded, or in imminent danger thereof, the measures taken by your Excellency may be considered as indispensable. You are the judge of the degree of danger, and of its duration, and will undoubtedly proportion the defence to the exigencies. The President, however, expresses his confidence, that, as soon as the danger which has induced you to call out so large a body of troops shall have subsided, you will reduce the troops to the existing state of things," "provided the safety of the frontiers will admit the measure." After speaking of some military supplies that had been forwarded, he thus concludes: "As a general and open Creek war, in the present crisis of European affairs, would be complicated and of great magnitude, the President is anxiously desirous of avoiding such an event." "Enclosed is a copy of a letter to the Governor of South Carolina, in case circumstances should require you to call for aid from that State."

The language of this letter to the Governor of South Carolina is strongly expressive of the President's apprehensions of a state of serious hostilities with the Indians. The Secretary says to the Governor: "The President of the United States has received authentic information from Georgia of the unprovoked and cruel outrages of parties of Creeks upon the frontiers of that State; and, as it is at present uncertain to what degree the evils complained of may be extended, the President has directed me to request your Excellency that, in case the frontiers of Georgia should be seriously invaded by large bodies of hostile Indians, you would, upon the request of the Governor of said State, direct such parties of the militia of South Carolina to march to the assistance of Georgia as the case may require; for the expenses of which the United States will be responsible."

On the 19th of July, Captain Constant Freeman was sent into Georgia, as agent of the War Department, to regulate the issues of public property to the troops who might be in the service of the United States, and to prevent or remedy any abuses which existed. Having, immediately on his arrival, entered on the duties of his appointment, on the 17th of October, 1793, he directed Major Gaither to attend to the instructions which he had communicated to him from the War Department in relation to the monthly muster and inspection of the militia in the service of the United States, promising to aid the person he should appoint with the necessary instructions.

On the 19th of February, 1794, his Excellency George Matthews, who had succeeded Mr. Telfair in the government of Georgia, having in person examined the exposed parts of the State, offered a plan for its defence to the War Department. He protests against the orders which forbid the militia from pursuing the Indians, whose tracks were stained with the blood of those they had just murdered, over a temporary and artificial line, as calculated to encourage the Indians, and to deprive the citizens of the State of the opportunity of reprisal, enjoyed by all nations under such circumstances. This letter is concluded with the following remarks: "I have now to request that some person may be appointed to muster the militia that now are or have been in service, as I presume Captain Freeman has informed you of Major Gaither's having refused to make the appointment. I can, sir, with great sincerity assure you that, in the defence I may require for this State, I have not a wish to make the expense one shilling more than is requisite; and when you reflect that we possess a frontier of more than four hundred miles, exposed to numerous tribes of hostile Indians, I flatter myself the plan I now submit will not be deemed extravagant. I have to request, if the arsenals or military stores of the United States will admit of it, that you send forward equipments for three or four hundred horse. I trust the President will not think this unreasonable, when it is taken into view that this State forms an extensive barrier, or rather picket, to the United States."

In letters of the 25th of March and 14th of May, 1794, the Secretary of War acknowledges the receipt of Governor Matthews' letter; assents to the propriety of his plans, generally for defence of the State; and sanctions particularly the erection of block-houses throughout the whole line of exposure, at the distance of twenty-five miles apart. On the subject of the pay of the militia theretofore employed, the Secretary observes, "As to the number of militia kept up by your predecessor during the last year, no returns or muster-rolls have been received—of course no judgment can be formed of their amount; some reports have made the number before mentioned to you. When the returns and musters shall be received, the question will be impartially considered by the President of the United States, whether, under all the circumstances of the case, he can consider himself as authorized to pay them. If he cannot, (which is most probable), the question will be submitted to Congress." In relation to the muster and pay-rolls, the agent of the War Department, Captain Freeman, thus addressed the Governor of Georgia on the 28th of April, 1794: "I am very happy that your Excellency has ordered the muster and pay-rolls for the militia to be prepared and forwarded; and that we so perfectly coincide respecting the nature of the service which has been per-

formed. I make no doubt but that all obstacles will be removed as soon as the former accounts of the militia can be laid before Congress, and that in future regularity and order will be introduced."

On the subject of those claims, Captain Freeman, in a report to the Secretary of War, made the 25th of October, 1802, after stating what muster and pay-rolls he had forwarded to the War Department, and particularly noticing those for the service termed *unauthorized*, remarks: "When the Accountant received the first estimates, he required explanations relative to these claims, and afterwards a certificate from the Governor that the militia had been called into service for the defensive protection of the frontiers. This requisition I transmitted to his Excellency, who made a statement of the militia services. I transmitted it to the Secretary of War, from whom I received a letter which encouraged the hope that those claims would be admitted and paid; and other letters afterwards received from the Accountant confirmed this belief. However, from the peculiar circumstances of the Government at that time, the attention of the Secretary of War was wholly occupied upon other objects, and he left the Department before any decision took place. It is proper to observe, the citizens of Georgia never thought the force authorized by the President of the United States adequate to the protection of the frontiers."

From the foregoing exposition of the papers submitted to the examination of the committee, and the contents of others yet to be noticed, the following facts seem to be established: That during the years 1792, 1793, and 1794, the State of Georgia was almost constantly in a state of serious alarm and danger from Indian hostilities, against which she was not permitted to defend herself, as was her obvious policy, by carrying the war into the enemy's country, and, by burning and destroying their villages and crops, to relieve her citizens from the painful necessity of being for years in arms upon her frontiers. That Georgia was not permitted to pursue this course because it was the duty and one of the attributes of the Federal Government "to provide for the common defence; and its policy in this instance, having a due regard to the safety of other parts of the Union, and the success of pending negotiations with other Indian tribes, forbade a war with the Creek and Cherokee Indians. That the President became at length seriously convinced of the dangerous situation of the State, and, not having Federal troops at his disposal, did on the 27th of October, 1792, invest the Governor of Georgia with discretionary powers in relation to the force to be employed for the safety of the inhabitants, but confined his operations strictly to defensive measures. That the Governor continued in the exercise of this discretionary power until the 30th May, when it was suspended by a letter of that date from the Secretary of War; but from the increasing pressure upon every part of the frontier, the power to act discretionary was again restored in the broadest terms in the letter of the Secretary of War of the 10th of June, wherein he says: "The State of Georgia being invaded, or in imminent danger thereof, the measures taken by your Excellency may be considered as indispensable. You are the judge of the degree of danger, and of its duration, and will undoubtedly proportion the defence to the exigencies." So ample was this power thus given for defensive purposes, that in its exercise the Governor of Georgia was not restricted to

APRIL, 1822.

Exchange of Stock.

SENATE.

the use of the means within the State, but was informed that the Governor of South Carolina had been required, should he request it, to order a detachment of the militia of that State to his assistance. That, under this authority, the Governor of Georgia did call out and place under the command of the Federal officers in that State large bodies of militia, who were employed along a frontier of nearly four hundred miles for defensive purposes, during the periods to which this inquiry was directed. The services of which troops are acknowledged, and the estimates of the pay claimed by them, amounting to \$129,375 66, are found in the documents examined by the committee, and in relation to which the then Secretary of War, Mr. Pickens, wrote the agent of the War Department in Georgia in August, 1795: "The large estimate for services, about which my predecessor doubted, I have looked into, and will immediately further examine. From the complexion of these claims, connected with the Governor's certificate, which I received enclosed in your letter of the 23d of June, I am inclined to think that they must be generally admitted."

And, again, in a communication to the Governor in September following, the Secretary of War assures him that "money for paying the Georgia militia is preparing to be forwarded. No delay will take place that is avoidable. The post is on the point of starting. I shall write you particularly by the next."

That the President did intend to intrust the defence of the State of Georgia to the discretion of the Governor is apparent from his requiring, as necessary to a decision on these claims, his Excellency's certificate that the troops were called into service by him, and employed for defensive purposes. That they were not, therefore, admitted and paid by the Administration under which they were authorized, can be accounted for only upon the grounds suggested by the agent of the War Department, that, "from the peculiar circumstances of the Government at that time, the attention of the Secretary of War was wholly occupied upon other objects, and he left the Department before any decision" could be made.

Under this view of the subject, your committee are of opinion that the defence of Georgia was a necessary measure on the part of the Federal Government, but became expensive and protracted from the peculiar situation of the United States, which did not permit an invasion of the Indian territory; that the forces employed by the Governor in defensive operations under the authority of the President did not exceed the exigencies of a frontier of nearly four hundred miles, constantly exposed to the incursions of treacherous enemies inhabiting the adjacent territory, and whose security from pursuit enabled them to concert in safety upon the very confines of the State, their plans of robbery and murder; and, consequently, the expenses of this defence are justly chargeable against the United States. They, therefore, recommend the following resolution:

Resolved, That the Military Committee be instructed to report a bill appropriating \$120,375 66 in full discharge of the militia claims of Georgia.

CONTROVERSIES BETWEEN STATES.

The Senate then, according to the order of the day, proceeded to the consideration of the bill (introduced by Mr. DICKERSON some weeks ago) prescribing the mode of commencing, prosecuting, and deciding controversies between States.

[The first section of the bill provides that, in all cases where any matter of controversy now exists, or hereafter may exist, between States, in relation to jurisdiction, territory, or boundaries, or any other matter which may be the proper subject of judicial decision, it shall be lawful for the State deeming itself aggrieved to institute against the State of which it complains a suit, or suits, in the Supreme Court of the United States, by bill, in the nature of a bill in equity, stating all the facts, and exhibiting and referring to all papers and documents deemed necessary to substantiate the complaint. The remaining fourteen sections embrace the details for effecting the object of the first section.]

Mr. SOUTHARD delivered an argument of considerable length in support of this bill; adverting to, for the purpose of showing the expediency of the measure, and entering a good deal into the merits of, an existing and long standing controversy between the States of New York and New Jersey, relative to their boundary and the extent of their respective jurisdictions—the State of New York claiming jurisdiction over all the waters between the two States, up to high-water mark on the Jersey shore; the latter State resisting this claim, and asserting her own right to exercise jurisdiction over the dividing waters, as far out as the middle thereof.

Mr. VAN BUREN also entered much at large into the merits of the dispute between the States, controverting some of the positions taken by Mr. SOUTHARD, and arguing that there was no necessity for adopting this bill, inasmuch as the question between the two States could, without any such laws, be brought up to the Supreme Court in a case between two individuals, being citizens of different States, &c.

The bill was then laid over, and made the order of the day for to-morrow, on the motion of Mr. DICKERSON.

EXCHANGE OF STOCK.

The bill from the House of Representatives to authorize the Secretary of the Treasury to make an exchange of certain six and seven per cent. stocks for stock to bear an interest of five per cent., was taken up in Committee of the Whole.

Mr. HOLMES, of Maine, entered into a brief exposition of the operation and effect of the bill; and in conclusion expressed the opinion that, if there was a strong probability that the Government would be able to pay off the debt as it became due, he should be averse to the bill; but, as it would do no harm at least, if it did no good, he should support the bill.

Mr. MACON was opposed to the bill. He conceived it to be neither more nor less than a new way to make a loan; for, if there was a prospect of being able to pay the debt, this bill would not have been introduced. It was the precise way in which England had gone on in her public debt—that nation which we abused most and copied most. He was opposed to the whole paper system, public and private—the only effect of which was to make the rich richer, and the poor poorer. He

SENATE.

Florida Land Bill.

APRIL, 1822.

had heard of war in disguise, but this was the first time, he believed, they had ever had a loan in disguise, and he was decidedly opposed to it.

Some conversation took place between Messrs. KING, of New York, and HOLMES, of Maine, on one or two points of inquiry, which the former put to the latter gentleman, as chairman of the Committee of Finance; after which, the bill was postponed until to-morrow.

The Senate resumed the consideration of the report of the Committee on Finance, to which was referred the petition of Jesse Hunt, praying relief from the duties on goods consumed by fire; and, after debate, the Senate adjourned.

TUESDAY, April 16.

The Senate took up the reports of the Committee of Finance, unfavorable to the petitions of Jesse Hunt, and of J. Remsen, Holmes & Co., (who pray to be relieved from the payment of duties on goods destroyed by fire,) and concurred therein.

A resolution offered yesterday by Mr. WALKER, instructing the Committee on the Post Office and Post Roads to inquire into the expediency of establishing a post road from Pulaski, in Tennessee, by Athens, Triana, and Somerville, to Blountsville, in Alabama, was taken up and agreed to.

Mr. HOLMES, of Maine, from the Committee on Finance, to which had been referred the General Appropriation bill for the civil list, reported the same with amendments, varying the amount of two or three appropriations; which were read and ordered to be printed.

The following engrossed bills were read the third time, passed, and sent to the House of Representatives for concurrence, viz: The bill for the relief of the representatives of John Donnellson, and others; the bill to authorize the building of certain lighthouses; and the bill for the relief of the representatives of Greenberry H. Murphy.

The engrossed bill to authorize and empower the corporation of the city of Washington to fill up and drain the low grounds on and adjacent to certain public reservations, and to improve parts of said reservations, was again taken up, on the motion of Mr. BARBOUR, and, after some discussion of certain provisions of the bill, in which it was opposed by Mr. KING, of New York, and was advocated at considerable length by Messrs. BARBOUR and LLOYD, the bill (having been yesterday read a third time) was passed, and sent to the House of Representatives for concurrence.

The following bills, brought up for concurrence from the other House, were severally twice read, and referred to appropriate committees, viz: A bill for the relief of the officers, volunteers, and other persons engaged in the late campaign against the Seminole Indians; a bill further to amend the several acts relative to the Treasury, War, and Navy Departments; and a bill to alter the time and place of holding the district court in the district of Mississippi.

On motion of Mr. ELLIOTT, the Senate took up

the bill from the House of Representatives to continue certain acts declaring the assent of Congress to acts of the States of Maryland and Georgia, authorizing the laying of a small tonnage duty in the ports of Baltimore and Savannah, for removing obstructions, &c., therein; and the object and expediency as well as the advantages derived from the bill, having been explained by Mr. ELLIOTT, it was ordered to a third reading without objection.

Mr. KING, of New York, from the Committee of Foreign Relations, to which was referred the bill from the House of Representatives, making an appropriation (of one hundred thousand dollars) to defray the expenses of missions to the independent nations on the American continent, reported the same with two amendments, the first adding ten thousand dollars to the appropriation, and the second subjecting the bill to the limitations of "the compensation of public ministers, provided by law."

The report of the Committee of Claims, unfavorable to the petition of Richard Woodland, was taken up and agreed to.

The Senate then resumed, as in Committee of the Whole, (Mr. MORRIL in the chair,) the consideration of the bill to authorize the Secretary of the Treasury to exchange certain stocks, bearing an interest of six and seven per cent., for stock bearing an interest of five per cent.; and, no amendment being offered thereto, the bill was reported to the Senate, and, without debate, ordered to be read a third time.

FLORIDA LAND TITLES.

On motion by Mr. LOWRIE, the Senate resumed, as in Committee of the Whole, the consideration of the bill for ascertaining claims and titles to land within the territories of East and West Florida; Mr. TALBOT in the chair; and the same having been amended, it was reported to the Senate; and, on motion by Mr. BENTON, to insert, in section 4, line 23, after the word "nineteen," in lieu of the words agreed to be stricken out, the following—"and agreeably to the laws, usages, and customs, of the Government under which they emanated;" and, on the question to agree thereto, it was determined in the negative—yeas 9, nays 27, as follows:

YEAS—Messrs. Barton, Benton, Brown of Louisiana, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, Macon, Rodney, and Talbot.

NAYS—Messrs. Chandler, D'Wolf, Dickerson, Eaton, Elliott, Findlay, Gaillard, Holmes of Maine, King of Alabama, King of New York, Knight, Lanman, Lloyd, Lowrie, Morrill, Palmer, Parrott, Pleasants, Ruggles, Smith, Southard, Stokes, Taylor, Thomas, Van Buren, Walker, and Ware.

The amendments made as in Committee of the Whole, having been concurred in, the bill was ordered to be engrossed and read a third time.

WEDNESDAY, April 17.

The Senate proceeded to consider the report of the Committee on Military Affairs, to which was referred the resolution instructing them to inquire

APRIL, 1822.

Controversies between States.

SENATE.

into the expediency of providing for the final settlement of the militia claims of the State of Georgia, for services rendered under orders of the President of the United States, during the years 1792, 1793, and 1794; and, on motion by Mr. ELLIOTT, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act supplementary to the acts to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war;" and the further consideration thereof was postponed to, and made the order of the day for, tomorrow.

A message from the House of Representatives informed the Senate that the House insist on their amendment to the amendments of the Senate to the bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same," disagreed to by the Senate. They have passed a resolution for the security, in the transmission of letters, &c., in the public mail, in which resolution they request the concurrence of the Senate. The resolution was read, and passed to the second reading.

On motion of Mr. JOHNSON, of Louisiana, the Senate took up the bill for the better organization of the district court of the United States within the State of Louisiana, (to divide the State into two districts;) and, after some remarks by Mr. J. explanatory of the object and the expediency of the proposed alteration, the bill was laid on the table.

Mr. LOWRIE laid before the Senate a resolution of the Legislature of Pennsylvania in relation to the militia fines assessed in that State; which was read, and ordered to lie on the table.

Mr. VAN BUREN laid before the Senate a resolution of the Legislature of New York, instructing the Senators from that State to call the attention of the General Government to the great importance of improving the navigation of the Hudson river; which resolution was read and referred to the Committee on Roads and Canals.

The engrossed bill to provide for ascertaining claims and titles to lands in the Territory of Florida, was read a third time, passed, and sent to the other House for concurrence.

The bill from the other House, to revive and continue in force an act, declaring the assent of Congress to certain acts of the States of Maryland and Georgia, was also read the third time, and passed.

The bill from the House of Representatives to authorize the Secretary of the Treasury to exchange a stock bearing five per cent. for stocks bearing an interest of six and seven per cent., was read a third time, and passed—yeas 36, nays 2, as follows:

YEAS—Messrs. Barbour, Barton, Benton, Chandler, Dickerson, Eaton, Edwards, Elliott, Findlay, Gaillard, Holmes of Maine, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lanman, Lloyd, Lowrie, Morril, Palmer, Parrott, Pleasants, Rodney, Rug-

gles, Southard, Stokes, Talbot, Taylor, Thomas, Van Buren, Walker, Ware, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Macon, and Seymour.

CONTROVERSIES BETWEEN STATES.

The Senate then resumed, in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and deciding controversies between States.

The debate was renewed on this bill, and continued with much earnestness more than three hours.

Mr. DICKERSON, of New Jersey, addressed the Senate at much length to sustain the expediency of passing the bill, and in reply to the argument delivered by Mr. VAN BUREN yesterday against it.

Mr. KING, of New York, spoke at considerable length to show that the bill was unnecessary, inexpedient, and ought not to pass.

Mr. SOUTHARD replied, and urged again the necessity and the expediency of this measure, to terminate the disputes which subsisted between several of the States, relative to boundary, &c.

Mr. VAN BUREN, also, again spoke in support of the ground taken by himself yesterday, and by his colleague, Mr. KING, to-day.

The debate on the part of all these gentlemen referred a good deal to the nature of the controversy existing between the States of New York and New Jersey; and they severally rejoined in the discussion more than once.

Mr. BARBOUR and Mr. MACON, respectively, without going into the merits of any particular controversy, submitted their reasons for disapproving the bill, arguing, chiefly, that such a bill ought not to pass without some apparent necessity; and as its passage did not appear indispensable, it would be impolitic, as consequences might grow out of it of much political inconvenience, &c.

Mr. DICKERSON, in conclusion, observed that, although no vote had been taken, yet he had ascertained the opinions of a number of the members on it; and as the objections seemed to be to the general nature of the bill, he would move an amendment, embracing the existing cases of dispute between New York and New Jersey, and New Jersey and Delaware; if these cases were provided for, they would obtain all they desired. He would at present, however, move to postpone the bill until to-morrow; and it was postponed accordingly.

THURSDAY, April 18.

Mr. MORRIL submitted the following motion for consideration:

Resolved, That the Committee on the Judiciary be directed to inquire into the expediency of passing a general law, requiring all persons who are authorized to receive or disburse the public moneys, before they commence such service, to enter into bonds, with good and sufficient sureties, in a suitable sum, conditioned for the faithful performance of their duty; and also, that all public officers who are authorized to make contracts with individuals, shall require such contractors to enter into like bonds, with like sureties, condi-

tioned as above, previous to their receiving any advance of public money; with such other provisions as may be necessary to secure the public property when in the hands of public agents.

Mr. HOLMES, of Maine, from the Committee on Finance, to which was referred the bill, entitled "An act for the relief of certain distillers within the sixth collection district of Pennsylvania;" and, also, the bill entitled "An act for the relief of B. H. Rand," reported the same, respectively, without amendment.

Mr. RUGGLES, from the Committee of Claims, to which was referred the bill, entitled "An act for the relief of sundry citizens of Baltimore," reported the same without amendment.

The resolution providing for the security in the transmission of letters, &c., in the public mail, was read the second time, and referred to the Committee on the Post Office and Post Roads.

The Senate proceeded to consider the amendment insisted on by the House of Representatives to the amendments of the Senate to the bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of public lands within the same;" and it was laid on the table.

Mr. HOLMES, of Maine, from the Committee on Finance, to which was referred the bill, entitled "An act making appropriations for the public buildings," reported the same, with an amendment, which was read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill entitled "An act to alter the times of holding courts in the western districts of Virginia, and for other purposes;" and no amendment having been made thereto, it was reported to the Senate, and ordered to a third reading.

GENERAL APPROPRIATION BILL.

The Senate took up, in Committee of the Whole, the bill from the House of Representatives making appropriations for the support of Government for the year 1822; and proceeded to consider the amendments reported thereto by the Committee on Finance.

Amongst the amendments reported to the bill by the committee was the following: "For surveying the public lands in 1821, forty thousand dollars."

This amendment was intended to cover one-half of an amount of expense incurred by the survey of a tract of country in Illinois, which the Surveyor General construed his instructions from the Commissioner of the General Land Office to require, but which, it appears, was not contemplated by those instructions; and a long debate followed on the propriety of making payment for it in whole, in part, or at all, at this time.

The appropriation was opposed by Messrs. HOLMES, of Maine, MACON, BARBOUR, CHANDLER, and MORRIL; and it was earnestly supported by Messrs. EDWARDS, BENTON, JOHNSON, of Kentucky, LLOYD, and BARTON, who also advocated the propriety and equity of allowing the whole sum of \$80,000. Mr. LOWRIE spoke against appropriating the whole sum, but would agree to

\$40,000, though he questioned the strict propriety of going even as far as that at this time. In the end, the amendment was agreed to.

The next amendment proposed to make an appropriation of \$15,000, to carry into effect the 4th article of the treaty with Spain, which provides for running the line between the United States and the Spanish territory.

After some explanation from Mr. HOLMES, of Maine, to show the propriety of the appropriation, notwithstanding the political changes that have occurred in Mexico—the amendment was agreed to, nem con.

The two next amendments reported by the committee, went, first, to reduce to \$1,200 the appropriation of \$2,000 for William Lambert, who was employed under a resolution of Congress to make observations to ascertain the longitude of the Capitol, preliminary to the establishment of a first meridian for the nation; and, secondly, to increase the appropriation for William Elliot who assisted in the observations, from \$500 to \$600.

After some discussion of the first of these amendments, in which Messrs. KING, of New York, PLEASANTS, HOLMES, of Maine, and BARBOUR, took part, the amendment was negatived—yeas 13, nays 15; and that which added to Mr. Elliot's compensation was agreed to.

The next amendment reported to the bill was one which went to extend to the military appropriation bill, already passed, the provision attached to the present bill prohibiting payments of salary being made to any officer while his public accounts shall remain unsettled.

On this question, an extensive debate took place. The principle of the provision was advocated by Messrs. HOLMES, of Maine, and MORRIL, as expedient, equitable, and proper, though they admitted it would at first operate very hardly on many individuals. Messrs. JOHNSON, of Kentucky, and JOHNSON, of Louisiana, opposed the provision because it was impolitic, as it would drive men from office of the most upright and virtuous characters; because men often appeared indebted to the Government who proved, on a settlement of accounts, to have money due to them by the Government; that the settlement of accounts was often suspended for the want of further proof or for some explanation; that its effect would be to make misfortune criminal, &c. Mr. BARBOUR, who concurred in these views, opposed the provision on the further ground, that it ought, if proper at all, to be a separate act, and not form a part of an appropriation bill which was intended simply to provide for paying sums which other laws had authorized, &c., and he intimated an intention to move to expunge it altogether.

The debate on both sides took a pretty wide scope; but, before the question was taken on the amendment, the bill was laid on the table.

FRIDAY, April 19.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

I communicate to the Senate copies of sundry papers having relation to transactions in East and West

APRIL, 1822.

General Appropriation Bill.

SENATE.

Florida, which have been received at the Department of State since my Message to the two Houses of Congress of 28th January last, together with copies of two letters from the Secretary of State upon the same subject.

JAMES MONROE.

WASHINGTON, April 18, 1822.

The Message and documents were read.

Mr. HOLMES, of Maine, from the Committee on Finance, to which was referred the bill, entitled "An act making appropriations for the support of the Navy for the year 1822," reported the same, with an amendment; which was read.

Mr. SMITH, from the Committee on the Judiciary, to which was referred the bill, entitled "An act altering the time and place of holding the district court in the district of Mississippi," reported the same without amendment.

The Senate proceeded to consider the motion of the 18th instant, for instructing the Committee on the Judiciary to inquire into the expediency of passing a general law, with such provisions as may be necessary to secure the public property, when in the hands of public agents; and, on motion, it was laid on the table.

The bill to alter the times of holding the courts of the Western District of Virginia, was read the third time, passed, and returned to the House of Representatives.

On motion of Mr. WALKER, the Senate resolved to insist on their disagreement to the amendment of the House of Representatives to the bill providing for paying to Alabama, &c., three per cent. of the net proceeds of the sales of public lands within the same; and to ask a conference of the other House on the disagreeing votes. Messrs. WALKER, WILLIAMS, of Mississippi, and EATON, were appointed the committee of conference, on the part of the Senate.

On motion of Mr. WILLIAMS, of Tennessee, the Senate proceeded to fill a vacancy in the Committee on Military Affairs, occasioned by the absence of Mr. ELLIOTT, who has been recently called home, and Mr. BENTON was appointed.

GENERAL APPROPRIATION BILL.

The Senate then resumed, as in Committee of the Whole, the consideration of the appropriation bill for the civil list; the question being on the amendment proposing to extend to the military appropriation bill heretofore passed, the provision prohibiting the payment of the salary of any person while he shall appear to be in arrears to the United States. The amendment to the provision was adopted without a division.

Mr. EATON thought the proviso in the bill altogether inexpedient, and would prefer to strike it out; but believing that would not be acceded to, he should make no such attempt, but be satisfied with an endeavor to qualify it. As it stood, it amounted to a declaration that there was no honesty amongst the public officers of this Government—a charge he was unwilling to make, for the reason that he did not think it was deserved. The provision, in its operation, would, he thought, produce much injury; officers of the Army and

Navy on distant service, might not be able to settle their accounts within the period limited by law; the adduction of vouchers could alone remove the debit resting against them; and, until this was done, their salary or pay could not be received by their families. He said the black book, as it was usually called, was a very sufficient argument against the provision as it stood. Last year the balances reported amounted to 15 millions of dollars; and, although during the last year 10 million of this had been settled, there had been paid the inconsiderable sum of \$80,000. Under the operation of this bill, none of those charged as defaulters could have received any salary due them, although upon a settlement scarcely anything was found to be due. He therefore moved to amend the provision so as to apply to arrears which shall "arise under any judgment had against the party; or where the balance is ascertained to be justly and equitably due."

A debate ensued on this and other amendments, which continued about three hours, of which the following is a very brief view:

Mr. LLOYD did not approve of this provision, because he suspected the honesty of any officer of the Government, or because he had any confidence that the statement of the list of balances implied that the persons there named were defaulters—he knew its fallacy too well to believe that to be the case; but he supported this provision on the broad principle that every man indebted to the people ought to discharge that debt before he receives any more of the people's money for his services; and he argued at some length to enforce the correctness of the principle, and the expediency of carrying it into operation. He would, however, be willing to modify the provision; and read an amendment which he intended to offer.

Mr. HOLMES of Maine, was utterly opposed to the amendment offered by Mr. EATON, as it would do away the value and utility of the provision, and establish an odious discrimination amongst the public debtors. It would give to those who keep back from a settlement of their accounts a preference over those who come forward and settle promptly, because those who settled and were found indebted would be subject to its operation, while those who avoided settlement would be exempted from the provision. He knew there was the power of coercion by suit, but it had not heretofore been effectual, either from the neglect of those who ought to prosecute, or the address of debtors in warding it off. This amendment, he said, would moreover give an improper power of discrimination to the Executive branch of the Government, &c. He was therefore in favor of the rigid enforcement of the provision; but the committee had this morning agreed to propose an amendment, which would go to embrace those only who should have been in arrear one year; and he spoke to show that this would be a sufficient relaxation of the principle. He would withhold not a dollar from any officer, which they had a right to; but, while they were indebted to the public, every dollar due to them should go to the payment of that debt. As re

lated to members of Congress there was no danger that the people would elect men who were indebted to the public and could not or would not settle—they would never elect defaulters.

Mr. VAN BUREN thought that the principle and object of the provision were correct; but its application to the extent proposed by Mr. Holmes would be carrying it too far—this was the danger in the adoption of all new principles. The adoption of this provision to the extent it came from the other House would be an instance in which, in the attempt to do right, they would fall into the error of doing wrong: it would be acting on the incorrect presumption that the Government was always right, and the individuals always wrong, in their statements. He cited cases in which men were apparently indebted to the Government, yet who owed nothing justly—amongst the examples was that in which officers received during the war Treasury notes at par—they were compelled to receive them at par—and were obliged to disburse them at a loss, and thus became losers and apparent debtors; they had an equitable claim on the Government for the difference, but the accounting officers could not allow it, and the disbursing officers of course continued to appear, and were reported debtors to the Government. He asked if men standing in this predicament, gallant and heroic men, who had sustained the honor of their country in the hour of danger, should be kept out of their just dues for such a reason? He argued at some length to show that, for these and other reasons, the provision ought to be modified at least, if not expunged altogether, and spoke to show that the amendment suggested by Mr. Holmes would not remove the unjust and oppressive operation of the provision. He would prefer the amendment of Mr. Lloyd, but even then it would be a harsh and often an unjust provision; arguing that the whole would be retroactive, so far as it applied to those who had made contracts on the public faith, and would have all the odious character of an *ex post facto* law; would be ruinous, &c.

Mr. SMITH avowed himself in favor of the clause as it came from the House of Representatives—and, if it were to be modified, he would take only that modification which was suggested by Mr. HOLMES. The clause had in view simply to compel those who owed the public to pay their debts, and this was called an *ex post facto* law. He exhibited to the Senate, for he could not undertake to read them, the voluminous lists of those who had been reported public debtors of more than three years' standing, to show the necessity of this provision. He replied to, and rebutted, in detail, the arguments of those gentlemen who had opposed the provision. He was not apprehensive that it would apply to members of Congress—he knew not of any to whom it would apply; but, if it did, it would be right and just: he deemed it in the highest degree reprehensible for any man intrusted with the public money to lay his hands on it; and such a man ought to be excluded from the public confidence.

Mr. JOHNSON, of Kentucky, did not view the

large books exhibited by Mr. SMITH to the Senate, in the same light as that gentleman; he felt for those volumes no respect or veneration, for he considered them as no more than official slander. He cited a case, with which he was personally acquainted, in which one gentleman, who lost his life in the service of his country, had been represented as a delinquent to the amount of \$36,000, which account, on an examination, had been pared down to \$2,500, to show how fallacious the official lists of balances were. Many appeared defaulters because they lost their vouchers in the chances of war; some of his friends thus appeared, whose vouchers were sunk in the waves of Lake Erie, when the holders were more intent on meeting the enemy than in preserving papers. He referred to other cases in which men would be thrown under the operation of the provision, by having become the securities of disbursing officers; and was opposed to any measure which would embrace in one sweep the swindler and the honest man. He argued, also, that the law was already ample; because new appointments must be submitted to the Senate, and those now in office were at the will of the President and could now be dismissed where they were delinquent. The Government had, moreover, the power of bringing suit, and could even take the body, and imprison the debtor at pleasure, when the pound of flesh must be exacted; and he concluded by declaring he thought it the most exceptionable principle that was ever ingrafted in the laws, because it would operate retrospectively, and of course on those who had fought the battles of the country.

Mr. LOWRIE said the simple principle of this provision was, that no money ought to be paid by the Government to a man who is indebted to the Government. If this principle were put to any farmer in the country he would approve it; it was also conformable to the rules of the Senate in the case of appointments; when persons were nominated to office, they were referred to a committee to ascertain if they had settled up their public accounts. But it was argued there were difficulties in the way of the adoption of this principle; and these difficulties, Mr. L. argued to show, were not substantial. As to the list of balances, he drew no argument from that in favor of this provision; for he knew the nature of that list too well, and doubted the expediency even of printing it, while the accounts were in a course of settlement. Mr. L. replied to some of the objections of Mr. VAN BUREN, and concluded that, although there would be cases of much hardship, under this provision, yet it would do much good, and he was in favor of it. The Heads of the Departments had decided, he learned, that every officer could settle his accounts within a year, and the amendment of Mr. HOLMES would place the provision on the principle adopted by the departments.

Messrs. VAN BUREN, HOLMES, LOWRIE, and SMITH, severally enforced their views on this subject.

Mr. RODNEY presumed no one would deny that an officer who was an ascertained and *bona fide*

APRIL, 1822.

General Appropriation Bill.

SENATE.

debtor to the Government ought to be made to pay the debt, and that the provision under consideration ought to apply to all such. So far, all would doubtless agree to, but it was impolitic, he argued, to go further. The great list of balances which had last year overshadowed the country, had been in one year, it appeared, reduced ten millions, and scarcely any part of these ten millions of settled accounts, was found due; that book was no evidence of delinquency, and ought to have no influence on the present question. Should the provision be adopted in its full extent, it would allow too much to interpretation, too much to the discretion of the accounting officers, who would then have it in their power to favor some in the settlement of their accounts, while they keep others in suspense, and thus be enabled, by partiality, to commit injustice, &c.

Mr. LLOYD, whose only object was to obtain payment of the public money, moved to modify Mr. EATON'S amendment, conformably to what he had suggested previously, but the modification was negative—yeas 14, nays 14.

The question was then taken on Mr. EATON'S amendment and decided in the negative, by yeas and nays, as follows:

YEAS—Messrs. Barbour, Brown of Louisiana, Brown of Ohio, D'Wolf, Eaton, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lanman, Lloyd, Pleasants, Seymour, Stokes, Van Buren, Williams of Tennessee—19.

NAYS—Messrs. Barton, Benton, Chandler, Dickerson, Findlay, Gaillard, Holmes of Maine, King of New York, Lloyd, Lowrie, Macon, Morril, Noble, Palmer, Ruggles, Smith, Taylor, Thomas, Walker, Williams of Mississippi, and Williams of Tennessee—21.

Mr. LLOYD then moved to amend the provision to read as follows:

That no money appropriated by this act, shall be paid to any person for his compensation who is a debtor to the United States, on an account stated and admitted, or on judgment, until such person shall have paid into the Treasury, or secured to be paid into the Treasury, in such manner as the President may direct and approve, all sums for which he may be so indebted.

The question was taken, without debate, on agreeing to this amendment, and was negative, by yeas and nays—yeas 19, nays 22.

On motion of Mr. HOLMES, of Maine, the provision was amended so as to limit its operation to those who have been for one year in arrears—yeas 25.

Mr. FINDLAY, in answer to those who had said this was a novel principle, stated that the principle had been in operation several years in Pennsylvania; that when adopted there, it was objected to for reasons similar to those used by its opponents on the present occasion; but none of the objections or inconveniences predicted, had in practice been realized. He had assisted in its adoption there, and he had no doubt, its effects would be equally as salutary in personal affairs. He did not, however, approve of the exact shape of this provision, and moved a slight amendment; but it was negative.

Mr. VAN BUREN then, for the reasons he had

previously offered on this point, moved to add to the provision the following:

Provided, further, That nothing in this section contained, shall extend to balances arising solely from the depreciation of Treasury notes, received by such person to be expended in the public service.

This amendment was agreed to by yeas and nays, as follows:

YEAS—Messrs. Barbour, Benton, Brown of Louisiana, Brown of Ohio, D'Wolf, Eaton, Edwards, Findlay, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lanman, Lloyd, Pleasants, Seymour, Stokes, Van Buren, Williams of Tennessee—21.

NAYS—Messrs. Barton, Chandler, Dickerson, Gaillard, Holmes of Maine, Lowrie, Macon, Morril, Noble, Parrott, Ruggles, Smith, Southard, Talbot, Taylor, Thomas, Walker, and Williams of Mississippi—18.

Mr. BARBOUR, asked if it was designed to apply the principle of this provision to those who became debtors by being security for public officers; if so, he thought it would be carrying the principle too far, and therefore moved an amendment, making the provision to embrace principal debtors only.

This amendment was opposed by Messrs. LLOYD, HOLMES, of Maine, and WALKER, as an inexpedient and unnecessary discrimination; and it was advocated by Messrs. EDWARDS, TALBOT, BARBOUR, and JOHNSON, of Kentucky, on the ground of its justice and expediency, and its conformity to legal principles. After considerable debate, the amendment was negative—yeas 17, nays 18.

The Senate then proceeded with the bill, and made some unimportant amendments, and then laid the bill on the table.

—
SATURDAY, April 20.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and deciding controversies between States; and, on motion, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to establish on the Western waters a national armory; and the same having been amended, it was reported to the Senate accordingly; and, the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

GENERAL APPROPRIATION BILL.

The Senate again resumed, in Committee of the Whole, the consideration of the General Appropriation bill.

Mr. TALBOT moved to insert in the bill an appropriation of \$9,000, for repairing the national road from Cumberland to Wheeling; on which motion a brief debate took place.

Mr. BARBOUR remarked, that in opposing the motion, he must disclaim any hostility to the road, whose improvement was the object of the appropriation. So far from it, he considered it as a monument of the liberality of the national councils, and, as far as a freedom of intercourse for social or commercial purposes is friendly to good

feelings, in so far as it was important to the strengthening of the Union. Whatever might have been the Constitutional objections at the commencement of this question, said Mr. B., our predecessors, among whom we find some of the most distinguished men this country ever produced, and remarkable for the correctness of their reading of the Constitution, resolved, and with the consent of the States of Virginia, Pennsylvania, and Maryland, to complete this great national measure, so essential to the interests of vast regions of our country, and have actually expended \$1,800,000, by successive appropriations, for near twenty years. To refuse now a pittance to keep this road in repair, established under such circumstances, would indicate a versatility of political opinions, and so fatal to the public interests, as to bring a reproach on our Government. But Mr. B. remarked that he opposed the motion on the ground that it was impolitic to incorporate a provision in this bill, which could not be expected to succeed, and by which this important act of legislation, so essential to the interests of thousands, and whose just claims have been already too long delayed, would be further postponed. Furthermore, it was known that a bill was now pending in both Houses to erect toll-gates on this road. This was perfectly correct, because those who use ought to pay for keeping it in repair. If at the time when that bill comes up, a motion should be made for an appropriation to put the road in a condition to justify the erection of toll-gates, Mr. B. said, as at present advised, he should vote for it.

The appropriation was advocated by Messrs. TALBOT, LLOYD, HOLMES, and RUGGLES, and was agreed to—ayes 21, noes 10.

Mr. BARBOUR moved to insert an appropriation of \$2,000 as a salary for the Commissioner of the Public Buildings; which motion, after some debate, in which Messrs. BARBOUR, HOLMES, of Maine, JOHNSON of Kentucky, LOWRIE, LLOYD, JOHNSON of Louisiana, and BARTON, took part, was carried—ayes 20, noes 18. The discussion turned on the expediency of continuing the office; the propriety of the Senate's inserting appropriations; the rights of the Senate in this respect; the presumed intentions of the House on the subject of this office; the propriety of making appropriations for an office while that office continued in existence, &c.

The bill and amendments were then reported to the Senate, and all the amendments were concurred in without objection, except those noticed below.

The amendment making an appropriation of \$15,000 for ascertaining the western boundary of the United States under the treaty with Spain, was objected to by Mr. WALKER, as unnecessary, if not inexpedient, as he could conceive of no right we have to run a line between Mexico, now an independent country, under a treaty with another Power.

Mr. HOLMES, of Maine, replied that we were under positive obligation with Spain to run this line whenever she is ready. We ought, therefore, to make the necessary appropriation to comply

with the stipulation; but if Spain shall be prevented from asking its fulfilment, the appropriation will not be used, unless, indeed, Mexico shall be willing to adopt and run the same line; but as to the independence of Mexico, there was as yet nothing positive known to us, and nothing which should absolve this Government from taking the necessary measures to carry the provision of the treaty into effect, if it should become requisite.

Mr. WALKER was not satisfied with the explanation. He was certain that if the appropriation were made, a commissioner would be appointed, and the salary would go on and be consumed until the time should arrive when an arrangement was made with Mexico as to the boundary; for it was pretty certain that the Spanish power was extinct in Mexico; there was no probability that the line would be run by Spanish authority, and the running of this line would eventually depend on the consent of Mexico. He made a number of remarks against the propriety of this appropriation under existing circumstances.

Mr. HOLMES replied that it was a curious argument to be used in the Senate, (one branch of the appointing power,) that the appropriation ought not to be made, lest an officer should be appointed who would have no duty to perform and ought not to exist. Mr. H. replied to the other objections of Mr. W. at some length.

Mr. VAN BUREN could see no reason, because circumstances had changed in Mexico, that we should omit to adopt the proper measures to perform our part of the treaty. He had no doubt the consent of Mexico would be given, and then it would be for the Executive to carry the appropriation into effect.

Mr. WALKER rejoined, that it seemed to be admitted the consent of Mexico would be necessary to the running of the line; then why make the appropriation, he asked, before that consent were given, and before the money were needed?

Mr. KING, of New York, observed, that this was a compact with Spain, not with Mexico; by it a line was to be run by commissioners on each side, and the President had, accordingly, it was understood, appointed a commissioner on the part of this Government, (Colonel McRee.) This compact, Mr. K. said, was made with a competent Power, and if Mexico became possessed of the territory either by revolution, by assignment, or otherwise, it must be received by her with all the obligations of existing treaties. Furthermore, Spain had already appointed her commissioner to run this line, and it was not fit that the United States should appear to be deficient in performing their part of the stipulation. He saw no objection to the running this line, but if any opposition were to be made by Mexico, he would withdraw immediately, then it would become matter of arrangement with her; but he anticipated no objection or opposition, as it was certainly the interest of Mexico that the line should be run, and he thought it was proper to make the appropriation, and proceed with the object.

The question being taken on concurring in the appropriation, it was carried—ayes 20, noes 18.

APRIL, 1822.

General Appropriation Bill.

SENATE.

The question on concurring with the Committee of the Whole in the provision (offered by Mr. VAN BUREN,) exempting from the arrears which are to exclude an officer from receiving his salary, those which accrued on the depreciation of the Treasury notes, was decided by yeas and nays in the affirmative—19 to 18, as follows:

YEAS—Messrs. Barbour, D'Wolf, Dickerson, Eaton, Edwards, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lanman, Lloyd, Pleasants, Rodney, Seymour, Stokes, Van Buren, and Williams of Louisiana.

NAYS—Messrs. Barton, Chandler, Findlay, Gaillard, Holmes of Maine, Lowrie, Macon, Morrill, Parrott, Ruggles, Smith, Southard, Talbot, Taylor, Thomas, Walker, Ware, and Williams of Mississippi.

Mr. TALBOT then moved to strike out the clause of the bill which provides that "no person that 'has been in arrears one year to the United States' shall receive any compensation under this act 'until he shall have accounted for and paid into 'the Treasury all sums for which he may be 'liable,'" and in lieu thereof to insert the following as a new and distinct section:

And be it further enacted. That no person or persons entitled to receive moneys from the United States in virtue of this or any other act for the appropriation of moneys, enacted during the present session of Congress, shall receive payment thereof, if any such person or persons shall be at the time of application for such payment, really and truly indebted to the United States on his or their own account, either by judgment not enjoined or appeal from, by bond or other obligation on which no credits are claimed, or by account which shall have been finally closed and settled at the proper department, and which has not been appealed from or contested, until all sums thus due from such applicant shall have been paid up or satisfactorily secured.

A division of the question was required by Mr. WILLIAMS of Tennessee, so as to be first taken on striking out the existing provision.

Mr. TALBOT avowed his concurrence in what appeared to be the almost unanimous opinion of the Senate as to the correctness of the general principle of this provision; but, for the reasons which he submitted in detail, he preferred it in the shape which he had proposed. He could never believe that it was proper, equitable, or just, to carry the principle to securities, however just it was to look to securities in the last resort for payment of a debt due the Government.

Mr. D'WOLF delivered his sentiments at some length against the whole provision. He thought it inexpedient in principle, that it would be a disgrace to the Government, and hoped in God it would be rejected altogether.

Mr. CHANDLER, Mr. JOHNSON of Kentucky, Mr. HOLMES of Maine, and Mr. VAN BUREN, severally added some remarks; when

The question was taken first on striking out the provision, and was decided in the negative as follows:

YEAS—Messrs. Barbour, D'Wolf, Eaton, Edwards, Holmes of Mississippi, Johnson of Kentucky, Johnson

of Louisiana, King of Alabama, Lanman, Lloyd, Parrott, Pleasants, Rodney, Seymour, Southard, Talbot, and Van Buren—17.

NAYS—Messrs. Barton, Benton, Brown of Ohio, Chandler, Dickerson, Findlay, Gaillard, Holmes of Maine, King of New York, Lowrie, Macon, Morrill, Noble, Palmer, Ruggles, Smith, Thomas, Walker, Ware, Williams of Mississippi, and Williams of Tennessee—22.

And the proposition of Mr. TALBOT fell of course.

Mr. BARBOUR, encouraged by the nearly equal division of the Senate, in Committee of the Whole, renewed the motion which he offered without success in Committee, to make the provision applicable to principal debtors only, and not to include securities.

Mr. HOLMES, of Maine, briefly opposed this amendment; and Mr. RODNEY submitted the grounds why, in such a case as the provision contemplated, the discrimination between the principal debtor and his security was proper, just, and expedient; repeating his concurrence in the soundness of the general principle, which he approved so heartily that he should prefer to see one so important and valuable, in a separate act, instead of a simple proviso in a common appropriation bill.

Mr. KING, of New York, Mr. D'WOLF, and Mr. VAN BUREN, added a few words each; when the question was taken on the adoption of the amendment offered by Mr. BARBOUR to except securities, and decided in the negative, by yeas and nays, as follows:

YEAS—Messrs. Barbour, Brown of Louisiana, Brown of Ohio, Dickerson, Eaton, Edwards, Findlay, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Knight, Pleasants, Rodney, Seymour, Southard, Stokes, Talbot, Van Buren—19.

NAYS—Messrs. Barton, Benton, Chandler, D'Wolf, Gaillard, Holmes of Maine, King of New York, Lanman, Lloyd, Lowrie, Macon, Morrill, Noble, Palmer, Parrott, Ruggles, Smith, Taylor, Thomas, Walker, Ware, Williams of Mississippi, and Williams of Tennessee—23.

Mr. LLOYD then moved the adoption of the following, as an additional proviso to the section:

Provided, also, That no person shall be considered as in arrears under the provision of this act, unless on bond or obligation for the payment of money, upon which credits have not been claimed; on a claim confessed or admitted or on judgment tendered in a court of law: And on securing the arrears to be paid into the Treasury, in such manner as the President may direct and approve, such debtor shall not be liable to the provisions of this act.

Mr. HOLMES, of Maine, objected to the amendment; and Mr. LLOYD offered at some length his reasons in favor of it—deeming it consistent with the principle of the provision, which he heartily approved, but the proviso he thought necessary to give the principle its fair and just operation. Mr. D'WOLF reiterated his decided hostility and his objection to the whole principle of the proviso, which he deemed injurious to the honor of the nation.

The question was then taken on the proviso

offered by Mr. LLOYD, and negatived, by yeas and nays:

YEAS—Messrs. Barbour, Brown of Louisiana, Brown of Ohio, D'Wolf, Eaton, Edwards, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Lanman, Lloyd, Parrott, Pleasants, Rodney, Seymour, Southard, Stokes, Talbot, and Van Buren—20.

NAYS—Messrs. Barton, Benton, Chandler, Dickerson, Findlay, Gaillard, Holmes of Maine, King of New York, Knight, Lowrie, Macon, Morrill, Noble, Palmer, Ruggles, Smith, Taylor, Thomas, Walker, Ware, Williams of Mississippi, and Williams of Tennessee—22.

Mr. EATON then offered the following, as an amendment of the proviso:

"But in all cases where the pay or salary of any person is withheld in pursuance of this act, it shall be the duty of the accounting officers, if demanded by his agent or attorney, to report forthwith to the agent of the Treasury Department the balance due; and it shall be the duty of said agent, within sixty days thereafter, to order suit to be commenced against such delinquent and his sureties; and on failing to do so, the pay or salary of such supposed delinquent shall not be withheld."

An earnest, and, in some degree warm, discussion of this amendment ensued, in which Messrs. EATON, HOLMES of Maine, JOHNSON of Kentucky, LOWRIE, VAN BUREN, and D'WOLF, took part, and which turned, incidentally, on the general principle of the provision also.

Mr. WALKER moved to expunge that part of the amendment which followed the word "sureties;" which modification, after some debate in which Messrs. WALKER, EATON, and BROWN of Ohio, took part, was accepted by Mr. EATON.

The amendment, as modified, was then agreed to.

Mr. SMITH, for the reasons that he submitted, offered the following additional proviso:

Provided, nevertheless, The person so applying and claiming the right to be sued, shall first tender to the public officer ample security to indemnify the Government against the costs of the suit.

The proviso was negatived, yeas 16, nays 21.

Mr. JOHNSON, of Kentucky, then offered an amendment to exempt from the operation of the provision, those persons who stand in arrears as the sureties for disbursing officers during the late war, unless where judgment has been rendered against himself or principal.

The amendment was negatived, by yeas and nays—14 to 25, as follows:

NAYS—Messrs. Barbour, Benton, Brown of Louisiana, Brown of Ohio, Eaton, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Pleasants, Rodney, Seymour, Talbot, and Van Buren.

YEAS—Messrs. Barton, Chandler, D'Wolf, Dickerson, Findlay, Gaillard, Holmes of Maine, King of New York, Knight, Lanman, Lowrie, Macon, Morrill, Noble, Parrott, Ruggles, Smith, Southard, Taylor, Thomas, Walker, Ware, Williams of Mississippi, and Williams of Tennessee.

The amendments were then ordered to be engrossed, and the bill ordered to a third reading.

MONDAY, April 22.

The PRESIDENT communicated a letter from the Secretary of State, with a statement containing the particulars in relation to the passengers which have arrived in the United States from the 1st of October, 1820, to the 30th of September, 1821, inclusive.

Mr. RUGGLES, from the Committee of Claims, to which was referred the petition of Joseph Forrest, praying indemnification for the loss of a vessel chartered to the United States, made a report, accompanied by a bill for the relief of Joseph Forrest; and the report and bill were read, and the bill passed to the second reading.

Mr. STOKES, from the Committee on the Post Office and Post Roads, to which was referred the resolution providing for the security, in the transmission of letters, &c., in the public mail, reported the same without amendment.

Mr. HOLMES, of Mississippi, submitted a document relating to the Natchez Hospital; which was read, and referred to the Committee on Commerce and Manufactures.

The engrossed bill to provide for the selection of a site on the Western waters, for the establishment of a National Armory, was read the third time, passed, and sent to the House of Representatives for concurrence.

The bill making appropriations for the support of Government for the year 1822, was read the third time as amended, passed, and returned to the other House for concurrence in the amendments.

REVOLUTIONARY PENSIONS.

The Senate took up in Committee of the Whole the bill from the House of Representatives, supplementary to the acts of 1818 and 1820, allowing pensions to Revolutionary soldiers, &c.

[Under the act of 1820, several thousand pensioners were stricken from the pension roll, who were deficient in the proofs necessary to entitle them to be continued on the roll.* Subsequently,

* PENSIONERS.—In the short synopsis which we published on Tuesday in the Senate proceedings, of the operation of the pension act of 1820, and the object of the bill recently before Congress, some pains were taken by our reporter that the facts should be correctly stated, and, with that view, the statement was submitted to one or two of those who were presumed to be most familiar with the subject. It appears, however, by the subjoined letter from the gentleman who superintends the Pension department, that the statement is in some respects liable to misconception; which letter, to avoid any further misapprehension, we think it best to insert entire.—*Editors Nat. Intl.*

WAR DEPARTMENT, PENSION OFFICE,
23d April, 1822.

GENTLEMEN: There is an error in your report of the proceedings of the Senate of yesterday. It is therein stated, that "several thousand were stricken from the pension roll who were deficient in the proofs necessary to entitle them to be continued on the roll." Not so. Not a man has been dropped from the list under the act of May, 1820, who has not exhibited the proofs necessary," i. e. the evidence prescribed by law,

APRIL, 1822.

Navy Appropriations.

SENATE.

those so stricken off presented further proofs in support of their right to enjoy the benefits of the act of 1818; but the Attorney General, whose opinion was taken in the case by the Secretary of War, decided that the persons who had been struck from the roll, under the act of 1820, could not, even on the adduction of further proof, be restored thereto by the Secretary of War, inasmuch as the Secretary's authority has ceased, as related to them. And the present bill was intended to "authorize and require the Secretary of War to restore to the list of pensioners the name of any person who may have been, or hereafter shall be, stricken therefrom, in pursuance of the act of 1820, whenever such person, so stricken from the list of pensioners, shall furnish evidence, in pursuance of the provisions of said act, to satisfy the Secretary of War that he is in such indigent circumstances as to be unable to support himself without the assistance of his country."²¹

The Committee on Pensions, to which this bill had been referred, reported the same with a recommendation that the bill be indefinitely postponed; and the question was on agreeing to this recommendation.

On this question a debate ensued, which continued nearly two hours. The indefinite postponement was opposed by Messrs. DICKERSON and MORRIL; and it was supported by Messrs. NOBLE and BROWN of Louisiana. The question being taken on the indefinite postponement of the bill, it was decided in the affirmative by yeas and nays, as follows:

YEAS—Messrs. Barbour, Barton, Benton, Brown of Louisiana, Brown of Ohio, D'Wolf, Edwards, Findlay, Gaillard, Holmes of Mississippi, Johnson of Louisiana, King of Alabama, Lloyd, Lowrie, Macon, Noble, Pleasants, Smith, Stokes, Talbot, Taylor, Thomas, Walker, Ware, Williams of Mississippi, and Williams of Tennessee—25.

NAYS—Messrs. Chandler, Dickerson, Holmes of Maine, King of New York, Knight, Lanman, Morrill, Palmer, Parrott, Ruggles, Seymour, and Van Buren—12.

So the bill was rejected.

NAVY APPROPRIATIONS.

The Senate then, according to the order of the day, took up in Committee of the Whole the bill from the House of Representatives making appropriations for the support of the navy, for the year 1822. To this bill the Committee of Finance of

a schedule of property: but the bill which passed the House, and which was rejected by the Senate, authorized the Secretary of War to restore those to the roll, who, since they were dropped therefrom, have become indigent enough to need "the aid of public or private charity." The publication, you will readily perceive, is calculated to lead to a very unfavorable conclusion, in regard to the due administration of the law; because, on referring to the act, it will be found that no authority is given to the Secretary to drop any name from the list, except on the evidence of the schedule. Be pleased to correct the error, and oblige your obedient servant,

J. L. EDWARDS.

the Senate, to which it had been referred, reported an amendment, providing that "each ration not actually drawn be rated at twenty cents."

On this amendment (which affects the compensation of the officers only of the navy, as the men never commute their rations for money) an extended discussion took place, embracing the general question of a reduction of the emoluments of the officers, the expediency of doing so in this bill, or at this time; the discrimination proper to be made in the allowances to officers at home and on foreign service; a comparison of the pay, and the composition and value of the rations of the navy, and those of the army. Mr. HOLMES, of Maine, advocated the amendment at much length and repeatedly, and he was replied to at large by Messrs. PLEASANTS and VAN BUREN. Mr. CHANDLER also made a few remarks favorable to the amendment, and Messrs. PARROTT, and KING of New York, opposed it.

Mr. LOWRIE spoke in favor of the amendment, but was willing to make a discrimination, which he submitted as an addition to the amendment, in the following words: "Except to officers in actual service at sea, in which cases the ration, if not drawn in kind, shall be rated at twenty-five cents." This was adopted without objection; and

Thus modified, the original amendment was agreed to—yeas 16, nays 12. The bill was then reported to the Senate, and the amendment was concurred in.

Some conversation took place between Messrs. PLEASANTS and HOLMES of Maine, touching the sufficiency of appropriation to cover the expense of an additional force to suppress piracy and smuggling.

Mr. JOHNSON, of Louisiana, inquired if there was any specific sum appropriated for that purpose: if there was not, he should move one; and then went on to show the necessity of maintaining a considerable force in the West India seas for that object; adverting to the facilities there for piratical depredations, their enormity, and prevalence at this time.

Mr. PLEASANTS moved the following additional item: "For the purpose of enabling the President of the United States, in case he shall think it necessary, to send an additional naval force for the suppression of piracy and the prevention of smuggling, one hundred and twenty thousand dollars."

Mr. BROWN, of Louisiana, united with his colleague in the absolute necessity of taking effectual measures to suppress the dreadful outrages on the citizens and commerce of the United States, which which were now so common in the West India seas. He stated that he had recent and authentic information from that quarter, that piracy had greatly increased in frequency of occurrence and in ferocity of character, notwithstanding all that had been done to cut it up. The acts of plunder were now almost invariably accompanied by the murder of the plundered; and the numerous keys and inlets of those seas afforded every facility for the perpetration of those crimes.

After a few words from Messrs. WILLIAMS, of

SENATE.

Proceedings.

APRIL, 1822.

Tennessee, and LOWRIE, the bill was, on motion, laid on the table.

On motion of Mr. SMITH, the Senate proceeded to fill a vacancy in the Judiciary Committee, occasioned by the absence of Mr. ORIS; and Mr. WARE was appointed.

After the consideration of Executive business, the Senate adjourned.

TUESDAY, April 23.

The bill for the relief of Joseph Forrest was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Thomas;" and, on motion, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of the representatives of Elisha Winter and William Winter; and, on motion, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of James Morrison; and, on motion, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of James May, and the representatives of William Macomb;" and, on motion, it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making an appropriation to defray the expenses of missions to the independent nations on the American continent; and, on motion it was laid on the table.

The following bills severally underwent consideration in Committee of the Whole, and were respectively ordered to be engrossed and read a third time; A bill for the better organization of the District Court of the United States within the State of Louisiana; a bill for the relief of David Cooper; a bill for the relief of Thomas Pendergrass; and a bill for the relief of Clarence Mulford.

The following bills from the House of Representatives were also considered in Committees of the Whole, and ordered to be read a third time, viz: A bill making appropriations for the public buildings; a bill for the relief of James McFarland; a bill for the relief of William E. Meek; a bill for the relief of Cornelius Huson; a bill altering the time and place of holding the district court for the district of Mississippi; a bill for the relief of John Baptiste Belfort and others; a bill for the relief of B. H. Rand; a bill for the relief of sundry citizens of Baltimore; a bill to remit certain duties in the sixth collection district of Pennsylvania; a bill restoring to the ship Diana the privileges of a sea-letter vessel; and a joint resolution providing for the security of the mails.

The resolution submitted by Mr. MORRIL on the 18th, relative to the requiring of more adequate security from disbursing officers, was taken up, and, after some explanatory remarks from Mr. M., to

show the expediency of making further provision on the subject, the resolution was agreed to.

Mr. RUGGLES, from the Committee of Claims, to which was referred the bill entitled "An act for the relief of the officers, volunteers, and other persons engaged in the late campaign against the Seminole Indians," reported the same without amendment.

The Senate resumed the consideration of the report of the Committee on Finance on the petition of Paul Lanusse and F. Bailly Blanchard, together with the additional evidence; and, on motion by Mr. JOHNSON, of Louisiana, it was laid on the table.

A message from the House of Representatives informed the Senate that the House concur in the first, second, eighth, tenth, and twelfth of the amendments proposed by the Senate to the bill entitled "An act making appropriations for the support of Government for the year 1822;" they disagree to the third, fourth, fifth, sixth, seventh, ninth, and eleventh, of the said amendments, and they concur in the amendment proposed by the Senate to the title of the said bill. They have passed a bill entitled "An act to repeal the act entitled 'An act to encourage vaccination;'" and also a bill entitled "An act relating to Treasury notes;" in which bills they request the concurrence of the Senate.

The said two bills were read, and severally passed to the second reading.

The bill entitled "An act to repeal the act entitled 'An act to encourage vaccination,'" was read the second time by unanimous consent, and referred to the Committee on the Judiciary.

The bill entitled "An act relating to Treasury notes," was read the second time by unanimous consent, and referred to the Committee on Finance.

WEDNESDAY, April 24.

Mr. NOBLE, from the Committee on Pensions, to which was referred the bill entitled "An act to revive and continue in force certain acts concerning the allowance of pensions upon a relinquishment of bounty lands," reported the same without amendment.

Mr. BENTON submitted the following motion for consideration:

Resolved, That the President of the United States be requested to make known to the Senate whether any revenue has accrued to the United States, and, if any, how much, from leases of lead mines in the valley of the Mississippi; whether any lease, promise, or agreement, is now in force for the use and occupation of any such mines, with copies thereof, if written, and the substance thereof, if verbal; with the names of the lessees, and their places of residence; whether the said leases, if any such there are, have been made with or without public notice, at auction or by private contract, by whom and with whom, with a copy of the powers under which each acted; also, a copy of the regulations, if any have been made, for carrying into effect the acts of Congress which authorized the lease of lead mines.

APRIL, 1822.

General Appropriation Bill.

SENATE.

The bill entitled "An act for the relief of sundry citizens of Baltimore," was read a third time, and passed.

The bill entitled "An act for the relief of James M'Farland," was read a third time, and passed.

The bill entitled "An act for the relief of William E. Meek," was read a third time, and passed.

The bill entitled "An act for the relief of certain distillers within the sixth collection district of Pennsylvania," was read a third time, and passed.

The bill entitled "An act for the relief of B. H. Rand," was read a third time, and passed.

The bill from the other House for the relief of John Thomas was considered, and ordered to a third reading.

The bill for the relief of Joseph Forrest was taken up and discussed at some length, and then postponed to Friday next.

The bill entitled "An act altering the time and place of holding the district court in the district of Mississippi," was read a third time, and passed.

The bill entitled "An act for the relief of Cornelius Huson," was read a third time, and passed.

The resolution providing for the security, in the transmission of letters, &c., in the public mail, was read a third time, and passed.

The bill entitled "An act restoring to the ship Diana the privileges of a sea-letter vessel," was read a third time as amended, and passed.

The bill entitled "An act making appropriations for the public buildings," was read a third time as amended, and passed.

The bill for the better organization of the district court of the United States within the State of Louisiana, was read a third time, and passed.

The bill for the benefit of Thomas Pendergrass was read a third time, and passed.

The bill for the relief of John Baptist Belfort, and others, was read a third time, and passed.

The bill for the relief of David Cooper was read a third time, and passed.

The bill for the relief of Clarence Mulford, having been reported, was read a third time, the blank filled with the word "eight," and the bill was passed.

Mr. WALKER, from the managers on the part of the Senate, at the conference on the subject of the disagreeing votes of the two Houses on the amendment proposed by the House of Representatives to the amendments proposed by the Senate to the bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sales of public lands within the same," made the following report:

The committee of conference propose the following amendments to the said bill:

Third line of amendment, strike out "their limits," and insert "within the limits of the late Mississippi Territory."

Twelfth line, strike out "deducted therefrom," and insert "if not entirely redeemed, the residue to be deducted from the net proceeds."

The report was read.

IMPORTATION OF SPIRITS.

Mr. DICKERSON, from the Committee on Commerce and Manufactures, delivered in the following report; which was read, and ordered to be printed:

The Committee of Commerce and Manufactures, who were instructed to inquire into the expediency of prohibiting the importation of foreign spirits, report:

That, in their opinion, the agricultural as well as manufacturing interest of the United States would be promoted by prohibiting the importation of foreign spirits. That the quantity of spirits that would in a short time be manufactured in this country to supply the place of that now imported, would afford a source of revenue more efficient, and much less precarious than that now derived from the importation of foreign spirits. But, as an immediate prohibition would injure the commercial interest of the United States, as well as diminish the revenue, until a system of excise could be brought into operation, the committee think it would be expedient to arrive gradually at the objects in view, by increasing the duties on foreign spirits. A bill, however, for this purpose, must be considered as a bill for raising revenue, and can only originate in the House of Representatives. The committee therefore submit the following resolution:

Resolved, That the Committee of Commerce and Manufactures be discharged from the further consideration of the resolution instructing them to inquire into the expediency of prohibiting the importation of foreign spirits.

GENERAL APPROPRIATION BILL.

The Senate took up the message from the House of Representatives announcing the nonconcurrence of that House in certain of the amendments made by the Senate to the civil-list appropriation bill.

The first amendment to which the other House disagreed was that which appropriated 40,000 dollars to defray in part the expense of making a certain survey of the public lands, within the last year, in the State of Illinois.

Mr. HOLMES, of Maine, moved that the Senate recede from this amendment; he had been willing to make this appropriation, though he did not approve the principle of paying for labor done without authority; but as the other House had objected, he would yield and leave the question to future legislation. The amendment was further supported by Messrs. BENTON and EDWARDS; but the Senate agreed to *recede* from it—ayes 18, noes 17.

The House had disagreed also to that amendment of the Senate which appropriated \$15,000 for carrying into effect the stipulation of the treaty with Spain for running the western boundary of the United States. After some remarks from Mr. KING, of New York, in favor of insisting on this amendment, the Senate resolved to *insist* thereon—ayes 19, noes 16.

The next amendment disagreed to by the other House was that appropriating 2,000 dollars, as compensation for the Commissioner of the Public Buildings, (the office now vacant;) and this amendment was *receded* from by the Senate—ayes 22, noes 11.

The fourth amendment disagreed to by the other House was that appropriating 9,000 dollars for repairing the Cumberland Road. This amendment, the Senate resolved, without debate, to *insist* on—ayes 20, noes 13.

The next and last amendment disagreed to by the House of Representatives was that which qualified the provision directing the withholding of salaries where the officers are in arrears, by making it applicable to those who have been in *one year*. From this amendment the Senate agreed to recede, without a division.

NAVY APPROPRIATIONS.

The Senate then resumed the consideration of the Navy appropriation bill. Mr. PLEASANTS withdrew the amendment he offered on Monday to the bill, to make an additional appropriation for the suppression of piracy—having ascertained that the object was provided for, and the amendment unnecessary.

Mr. KING, of New York, moved to recommit the bill to the Finance Committee with instructions to strike out the clause (inserted on Monday) providing that, when the Navy rations are drawn in money, the ration shall be valued at *twenty cents* (instead of 25 cents, which the regulations of the Navy have, since 1814, fixed the commutation price of the ration at.)

On this motion a long discussion took place, which continued until three o'clock, and in which Messrs. KING, of New York, HOLMES, of Maine, PARROTT, CHANDLER, PLEASANTS, JOHNSON, of Louisiana, LANMAN, EATON, LOWRIE, BROWN, of Ohio, MACON, and WALKER, took part. The motion to recommit the bill for the purpose stated, was ultimately agreed to by yeas and nays, as follows:

YEAS—Messrs. Barbour, Benton, Brown of Louisiana, D'Wolf, Eaton, Gaillard, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of New York, Knight, Lanman, Lloyd, Parrott, Pleasants, Rodney, Seymour, Stokes, Taylor, Van Buren, Ware, Williams of Mississippi, and Williams of Tennessee—23.

NAYS—Messrs. Barton, Brown, of Ohio, Chandler, Dickerson, Findlay, Holmes of Maine, King of Alabama, Lowrie, Macon, Morrill, Ruggles, Smith, Talbot, Thomas, and Walker—15.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of James May, and the representatives of William Macomb;" and, on motion, the Senate adjourned.

THURSDAY, April 25.

Mr. SMITH, from the Committee on the Judiciary, to which was referred the bill, entitled "An act to repeal the act, entitled 'An act to encourage vaccination,'" reported the same without amendment.

Mr. HOLMES, of Maine, from the Committee on Finance, to which was referred the bill, entitled "An act relating to Treasury notes," reported the same without amendment.

Mr. EATON submitted the following motion for consideration:

Resolved, That the President of the United States be requested to communicate to the Senate the report of the Attorney General relative to any persons (citizens of the United States) who have been charged with, or suspected of, introducing any slaves into the United States, contrary to existing laws.

The Senate proceeded to consider the motion of the 24th instant, for requesting the President of the United States to communicate to the Senate certain information relating to certain lead mines in the valley of the Mississippi, and agreed thereto.

Mr. RODNEY presented the petition of a number of citizens and inhabitants of East Florida, praying the passage of an act to lay out and open a large and convenient public road from the city of St. Augustine to Pensacola. The petition was read, and referred to the Committee on Roads and Canals.

The bill entitled "An act for the relief of John Thomas," was read a third time, and passed.

The Senate proceeded to consider the report of the Committee on Commerce and Manufactures, who were instructed to inquire into the expediency of prohibiting the importation of foreign spirits; and, on motion, it was laid on the table.

Mr. DICKERSON, from the Committee on Commerce and Manufactures, to which was referred the act of the Legislature of Mississippi, making appropriations for the Natchez Hospital, made a report, concluding with a resolution adverse to the expediency of granting the assent of Congress to said act; and the report was read.

The Senate resumed the consideration of the bill from the House of Representatives making appropriations for the Navy, for the year 1822, which was this morning reported by the Committee on Finance, with the modifications they were instructed to make to it on its recommitment.

The Committee on Finance, however, reported an amendment to the bill, similar to that incorporated in the other appropriation bills, prohibiting the payment of compensation to any officer while he remains in arrears to the United States. This amendment was adopted, and the bill was ordered to be read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled, "An act for the relief of the officers, volunteers, and other persons engaged in the late campaign against the Seminole Indians; and, on motion, the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to revive and continue in force certain acts concerning the allowance of pensions upon a relinquishment of bounty lands; and, on motion, it was laid on the table.

INDIAN TRADE.

The Senate then took up, in Committee of the Whole, the bill to amend the act of 1802, regulating trade and intercourse with the Indian tribes.

Mr. BENTON moved an amendment to the first

APRIL, 1822.

Indian Trade.

SENATE.

section in the following words: "And the power to grant licenses shall be vested in persons at points convenient for carrying on the trade."

[The bill and amendments propose to place the fur trade on liberal principles; opens it to all American citizens, and none others; vests in Superintendents of Indian Affairs, and Indian agents, the power to grant licenses for two years with the near tribes, and seven years with the remote tribes beyond the Mississippi; subjects to seizure and forfeiture the goods of all traders who carry ardent spirits to trade with the Indians; and repeals the section of the former act which subjects the traders' license to be recalled without notice or proof of misconduct.]

Mr. BENTON, of Missouri, spoke in support of the bill and these amendments.

He considered the fur trade as an object of national concern, and entitled to the notice of the Senate. He spoke of it in two points of view:

1. As a branch of commerce.
2. As the means of controlling the Indians.

On the first point—Mr. B. quoted several books to show the value of the fur trade, as carried on under the Spanish Government, at St. Louis; under the Republic, at the same place; and by the British trading companies on the waters of the Mississippi and Missouri, and on the lakes and rivers out towards the arctic region.

The work of Perrin, a French writer, sent by Napoleon to examine the resources of Louisiana, about the year 1800, estimates the furs, robes, and peltries, taken on the waters of the Missouri, at 600,000 *livres tournoise* annually, and those taken on the waters of the upper Mississippi at 1,200,000; the latter being almost exclusively in the hands of the British.

The work of Major Stoddart, written in 1804, states the value of this trade, at St. Louis alone, to have averaged \$203,000 annually, for fifteen years before the transfer of the province, amounting, in the whole, to upwards of \$3,000,000 in that time.

Mr. A. exhibited a table which showed the value of the trade for the year 1816. It was taken from the office of the Superintendent of Indian Affairs at St. Louis, (Governor Clark,) and embraced all the business done within the limits of the United States by the American and British traders, and by the United States factories, and amounted to \$441,200; of which \$29,800 was exported by the way of New Orleans; \$122,020 was taken up the Ohio river into the Atlantic States; \$258,400 was taken through the Canadas, on the line of the Illinois river, the lakes, and the St. Lawrence; and the remainder, \$31,000, was consumed in the country.

Mr. B. referred to Sir Alexander McKenzie's *History of the Fur Trade*, and Winterbotham's *View of America*, to show the value of this trade, as carried on by the Northwest and Hudson Bay Companies. The first had amounted, annually, for forty years, to a million and a quarter of dollars per annum—fifty millions in the whole; and much of it taken from the territory of the United States. The second, being a monopoly for a long time in the hands of Crown favorites, produced but a trifle,

say \$140,000 annually, until the late Earl of Selkirk purchased the charter, and came in person to push the trade. The two companies are now united. The name of the Northwest is merged in that of Hudson's Bay, under whose charter the trade is now carried on with increased activity, and with such prospect of emolument that the stock of the company is quoted, in the latest London papers at one hundred per cent. advance.

Mr. B. said that the trade in the hands of American citizens had not increased for some years. A rivalry had existed between the private traders and the Government traders; and the latter, having the ear of the Government, had been able to prejudice the former, without doing any thing themselves proportionate to the capital of \$300,000, which was placed in their hands. He had not precise data for fixing the amount of the private capital now embarked, but would estimate it at \$120,000 for the waters of the Upper Mississippi, and \$200,000 for the Missouri and its tributaries. These sums were intended to cover only the stock in trade; the expenses in boats, boatmen, provisions, clerks, interpreters, &c., was a distinct item, and a large one, amounting, in some instances, to seventy-five per cent. upon the capital.

Mr. B. said, that this view was sufficient to show that the fur trade, as a branch of commerce, was entitled to the notice of statesmen and to the protection of the Government; yet he had only presented a limited view of its value; he had confined his observations to the waters of the Upper Mississippi, and to the Missouri below the Mandan Villages; he had not carried the eyes of the Senate to the Rocky Mountains, and shown them there the richest fur region in the world, belonging, by law, to the citizens of the Republic, and possessed, in fact, by the subjects, of the British Crown. The Republic owns the section of the Rocky Mountains between the latitude of 42 and 49 north, say 500 miles from north to south, and, on an average, 300 wide; the summits of the ridges penetrating the region of perpetual snow; the valleys rich and beautiful, covered with grass, clover, wood, and wild fruits, finely watered; abounding in horses, buffaloes, antelopes, and the most valuable of the furred animals, not excepting the ermine; in a word, presenting all the characteristics of the Alpine region in Switzerland, before it was cultivated. The Republic was indebted to the enterprise of Lewis and Clark for the discovery of this rich region. Several companies of American citizens had attempted to avail themselves of that discovery. Lisa, who, with 250 men, ascended the Missouri to its source in 1808, and was expelled by the hostilities of the Blackfeet Indians, supposed to be instigated by the Northwest Company. Messrs. Hunt and Crooks, with 60 men, who crossed to the Columbia about the year 1811, and were compelled to abandon their enterprise, by the events of the war, which soon after broke out; and a company of 100 men, headed by Major Andrew Henry, a companion of Lisa's in the expedition of 1807, 1808, now ascending the Missouri, and who will, in all probability, be attacked by the Aricaras, the roving

bands of the Sioux, or the Assiniboina; tribes intimately associated with the British fur companies.

Taking the trade of the mountains into the estimate, and Mr. B. computed the capital it would annually employ at a million of dollars, and that it would give employment to 2,000 men. The British companies traded upon a greater capital, employed about 2,500 men, and were at this time bringing out 300 regular troops from England, to be stationed convenient to the northern bend of the Missouri, which approximates to the line of their forts and trading posts on the rivers of the Winippee Lake.

The nature of the capital would enhance the value of the trade to the country. It would consist, in good part, of articles of home growth or production—powder, lead, shot, axes, hatchets, knives, guns, tobacco, and coarse fabrics of wool and cotton; many of which would be got in the West, convenient to the trade, and would give a spring to the industry, which now languishes for want of aliment to feed it.

The nature of the proceeds would still further enhance the value of the trade. It would give, in return, articles of the first value and necessity—the common furs, universally in demand as the chief material for making hats, and the richer kind, esteemed, both at home and abroad, as an article of dress; worn by monarchs for magnificence, ladies and city gentlemen for beauty, and by travellers as the best defence against frost, and commanding in foreign parts, China, Japan, Germany, and Russia, twice or thrice their value in the American market.

Mr. B. contrasted the value of the fur trade with the commerce carried on with many foreign Powers, and for the protection and preservation of which the Republic keeps up expensive establishments of embassies, consuls, and ships of war, and which consume less amounts of *American* produce, and give in return articles of incomparably less value. He particularized the commerce of Russia, which consumes \$147,000 of American produce, (taking the year 1822 as the criterion,) and gives in return raw hemp, or its fabrics, to the prejudice of the growers of hemp in the Western States; the trade with Sweden, which takes \$154,000, and returns iron, to the manifest injury of our own districts which produce that metal; with Portugal, which takes \$147,000, and sends wine, to put our own whiskey out of countenance, and discourage the grain growers; and all the ports in the Mediterranean, Levant, and Adriatic seas, taking in the whole, but \$615,000, and sending back articles of taste and fancy, of little or no substantial use. Mr. B. considered all this commerce as a miserable object compared to the fur trade; yet the latter was neglected, and the richest part of it left to the quiet enjoyment of the British, to the great prejudice of the Western States; while the former was cherished, at an annual expense of more than half a million of dollars, in ambassadors, consuls, and naval armaments; and the slightest interruption to it would be considered, by all the Cis-Alleganian States, as just ground of

complaint and remonstrance on the part of the Republic.

Mr. B. spoke of Mr. Jefferson's ideas, suggested in his instructions to Lewis and Clark—the *practicability of taking the furs of the Rocky Mountains direct to China, upon the line of the Columbia river and the Pacific Ocean*. He said the problem had been resolved; it had been done; it was done by the company which crossed the mountains in 1811, and there was no difficulty in it. The Columbia river was of easy navigation, a good harbor in its mouth, and the Pacific Ocean void of peril. The region of the mountains, so formidable to the progress of Lewis and Clark, is now traversed by various and easy passes. The first and main ridge is crossed upon a good road, made by buffaloes and Indians, leading from the Falls of Missouri to the forks of Clark's river, (150 miles;) points between which the first discoverers travelled about 1,200. The next bed of mountains, on which they found snow twelve feet deep in June, is now turned upon the right by descending Clark's river two or three degrees, and then passing west, over land through an open level country, to Lake Weyton, whence issues the navigable Lautau river, entering the Columbia at a short distance, and avoiding the falls and rapids at the foot of the mountains. Mr. B. had no doubt but that East India goods would enter the valley of the Mississippi upon the same route. He would not discuss the question now, but he would say, that the sea between America and Asia was peaceful; that the tide flowed up the Columbia 183 miles; that the river was deep and gentle, and periodically flooded; that the land carriage was short and easy, over a region which furnished snow for sleighs six months in the year, and convenient to the fine horses on the Plains of the Columbia; that the longest part of the route was in the *descent* of the Missouri, (2,575 miles from the falls to the Mississippi,) which, being down the stream, was nothing; that the articles to be brought in were of little weight, great value, and small bulk, such as were once carried some thousand miles upon camels, and constituted the wealth of merchants whose opulence is yet seen in the ruins of Alexandria and Palmyra, and upon the line on which the commerce of Asia had ever flowed.

On the second point.—The fur trade is the true means of controlling the Indians. The history of these States, when colonies, and ever since, is full of the proofs. The King's Governors always operated upon the Indians through their traders. The French authorities in Canada, and in the valley of the Mississippi, did the same, and they both operated successfully upon them. The consequence was, that, in every war between the French and the British, the Indians came in more as principals than auxiliaries, and always took the side of the Power to whom their respective traders belonged. In the war of the Revolution these truths were too recent not to be known, and too convincing not to prevail. The Congress of 1776, to gain the good will of the Indians, addressed themselves to the American traders. They even advanced money to purchase goods, to be sold

APRIL, 1822.

Indian Trade.

SENATE.

without profit to the traders, to enable them to carry on their trade, and to preserve their influence among the neighboring tribes. The sum of 40,000 pounds sterling was voted at one time (January, 1776) for this object; and the goods distributed to the traders at $2\frac{1}{2}$ per cent. on the cost and freight. Our enemies, the British, acted upon the same principle, and with more success, because they acted with more perseverance, and had greater means at their disposal. In the late war the same results were seen. A trading-house in Pensacola directed the Creeks against us; the agents of the North West Company led a dozen nations against the frontiers of Ohio. The Republic had comparatively but few on her side. The reason was, that she had no traders among them to gain their affections; only factories, "to improve their moral and intellectual faculties, to convert them into farmers and Christians," charitable institutions, without doubt, but so little capable of controlling the warlike spirit of the savages that the factories were themselves the first objects of attack on the breaking out of hostilities.

Mr. B. would not fatigue the Senate with further remarks on this point. He only wished to revive the recollection of the policy observed by our ancestors when Indian affairs were better understood than at present. He trusted that he had said enough to sustain the positions which he had assumed in favor of the fur trade, and shown that its importance, both as a branch of commerce, and the true means of governing the Indians, entitled it to the national protection.

The bill and amendments are calculated to give it some protection. They repeal the 7th section of the act of 1802, because that section gives to superintendents and agents the power to recall the licenses of traders, without showing cause, and trying the truth of it. He had heard of no license improperly recalled, but it might happen; and a trade so valuable, in which so large a capital would be embarked, should not be subject to a sudden suspension at the will of any man. They (the bill and amendments) authorize licenses to be granted for seven years. Heretofore they were limited to two. This period was fixed when the Mississippi was the boundary of the Republic; it is no longer an adequate time, when that river, ceasing to be the *ultima thule* of the trader, has become his starting point. The British Companies have just had their license (charter) extended twenty-one years, and the Russians twenty; and seven years is sufficiently short for the American trader, who goes to the Rocky Mountains to contend with the former, and to the Columbia river to contend with the latter. The section intended to be repealed left the trade open to British subjects; it was obliged to do so under the third article of Mr. Jay's Treaty; but the late war had abrogated that treaty, and it was worth a war to get rid of it. The Treaty of Ghent had not revived the odious privileges of the third article, and it was the bounden duty of Congress to avail itself of this advantage, and to exclude British traders from the navigation of the Mississippi and the trade of our Indians. The bill and amend-

ments propose to do so; they confine the licenses to American citizens, and the goods of those who have no licenses will be subject to seizure and confiscation. The bill facilitates the acquisition of licenses to American citizens, by vesting the power to grant them in officers stationed at convenient points for carrying on the trade. The Governors of Michigan and Arkansas, as superintendents, have this power. All the agents have it. A superintendency is established at St. Louis, to exercise it; and this facility will give to that town the advantage which its geographical position has always claimed, and which the improvidence of Mr. Jay's Treaty had conferred upon Montreal—the advantage of being the *entrepot* of the American fur trade.

Mr. B. said there was a further protection due to the fur trade, not now contemplated by the bill before the Senate, and he regretted to say, not countenanced heretofore by the Congress. He alluded to the military expedition to the Upper Missouri. His local position beyond the Mississippi had given him an opportunity of gaining local intelligence, and, presuming upon this, he would differ in opinion from the majority of the Congress which had stopped this expedition. He applauded the policy which selected the Mandan Villages for a military post, which intended to place on that point of approximation to the British establishments of Lake Winipeg, an adequate force to overawe her traders, and to encourage our own in carrying their commerce to the region of the Rocky Mountains. He considered this expedition as a branch of that enlightened system of national defence which, embracing the vast circumference of the Republic, and seizing at once all the commanding points on the Lake, the Gulf, the maritime and Western frontier, endeavored to provide for every part an efficient and appropriate defence. He knew that a waste of money had taken place in the ascent of the Missouri, and he was willing to go all lengths with the Senate in correcting that and the like improvidences in other places; but he utterly protested against the justice of seizing upon a circumstance to defeat a plan of national defence, so honorable to the administration which had formed it, and so well calculated to secure posterity, as well as ourselves from the calamities of a country engaged in war, and open, upon a hundred lines, by land and water, to the invasion of the enemy's arms.

Mr. B. had heard objections, founded in motives of humanity, to the system of trade which the bill contemplated. These objections were:

1. The destruction of the Indians by ardent spirits.
2. Impositions upon them in the sale of goods.
3. Exciting them to wars.
4. Retarding their progress towards civilization and christianity.

He replied to these objections:

On the first.—Mr. B. admitted that ardent spirits were the bane of the Indians, and destroyed more of them than the sword; but denied that the regular traders committed this destruction. He imputed the mischief to the peddling traders, called

by the French, "*coueurs de bois*," a class of running gentlemen, who had no permanent interest in the friendship of the Indians, and cared not what injury they did them. Not so with the regular trader. He visited the same tribe annually, with a large adventure of goods, and depended upon the good will of his customers for his success in trade and the safety of his life. To him nothing was more dreadful than a gang of drunken Indians—all their passions unbridled, and their in-born appetite for bloodshed and pillage left without the restraint of the least discretion. In such situations they kill even one another, upon the slightest provocation, the most ancient grudge or imaginary insult. The traders are in double danger. Their property is a tempting prize, and the color of their skins revives the recollection of that long list of injuries which the red man has received from the white. But the bill does not leave the evil without a remedy. The trade in spirits is prohibited; bond and security are exacted from every trader. Authority is given to agents, superintendents, and military officers, to search any package, upon suspicion or information that spirits are carried out to trade, and to seize and forfeit all the goods, if any be found, and to revoke the license of the trader, and put his bond in suit.

Mr. B. said that this was the true remedy for the evil; it went to its root; it was the first remedy that ever did so; and the Senate would do him the justice to remember that he had suggested it, and he would do the regular traders the justice to say that he had received the suggestion from them.

On the second.—The apprehension is imaginary. It is in proof before the Senate, that the Indians are good judges of the quality and prices of the goods in which they trade, and of the value of their own furs and peltries; that, dealing always in the same articles, they are less liable to be imposed upon by their traders than white people are by their merchants. Besides competition is the best security against imposition, and the bill affords that security. It lays open the trade, upon easy terms, to all American citizens, and the number of traders will be sufficiently great to reduce the price of goods to the lowest rate, and to insure the highest prices for furs and peltries.

On the third.—Mr. B. believed this to be a modern discovery—one of the notable conceits for which the Senate was indebted to the Superintendent of Indian Trade at Georgetown. He had met with it himself, for the first time, in those morsels of eloquence with which this officer annually regaled "the intellectual faculties" of the Congress. He considered it, however, as one of the forlorn hope in that troop of bugbears which was annually conjured up for the service of the factory system, and which had no existence except in the fertile brains of the Superintendent. Mr. B. would refer him, not the Senate, to *Loskiel*, a writer on missions and Indian customs—a writer with whom the Superintendent must be intimately acquainted, and whose authority, as a christian, he could not dispute. He would there see (page 99) that peace is indispensable to the operations of a trader; that, in war, he is pursued as an enemy, and killed as

a prize; that all debts which are due him are cancelled by the hatchet; and that he cannot even return for a long time after peace is restored, without danger of being robbed and murdered.

On the fourth.—Mr. H. considered this objection as a member of the same family to which the last one belonged. He did not think it an easy business to convert Indians into farmers and christians. Hunting had too many attractions to be voluntarily abandoned by the savage or the civilized man. The Pawnee Chief spoke truth to the President when he told him "that he would never bruise his hands with digging in the ground, while he could find a buffalo to hunt or a horse to steal." He spoke the language of all barbarians. They despise agriculture. War and hunting is their passion, and labor is left to the servile hands of women and slaves. When the objects of the chase are extirpated—when the forest no longer furnishes animals for food, and skins for raiment, then, and not till then, *necessity*, the true principle of civilization, compels the hunter to turn farmer, forces him to dig in the ground for his bread and his clothes, gives him a fixed habitation, ideas of separate property in the soil, and thus providing for the wants of the *body*, leaves the *mind* free to imbibing improvement. The trader facilitates this process by promoting the destruction of the game; and if American traders are not permitted to do it, the English traders will. Restraining the one leaves the field open to the other; and, such is the anti-national preposterous effect to be produced by shutting the fur trade against our own citizens on motives of humanity and religion.

Mr. B. said that the bill contained two other provisions highly just and necessary; one introducing a better system of accountability in all expenditures of the Indian department; and the other transferring those expenditures from Georgetown, in this District, to the States and cities convenient to the Indian tribes. Under the former law the factory superintendent was the organ of government expenditure, and Mr. B. had shown on a former day (debate on the abolition of the factories,) the enormous abuses which were committed in purchasing in the East the articles which abounded in the West. The Superintendent and Indian Agents, under the new provision, will make the expenditures, and will purchase every thing, even British dry goods, cheaper on the banks of the Mississippi and Ohio, than they have been usually bought by the Superintendent in this District.

Mr. B. left the bill to the decision of the Senate, trusting that they would feel an additional motive for passing it, when it was seen to be the best which the Government could adopt for controlling the Indians, and tended to distribute a part of the public expenditure to the West, and to encourage one branch of its drooping commerce.

When Mr. BENTON had concluded—

Mr. JOHNSON, of Louisiana, replied to him. Messrs. MACON, and LOWRIE, also joined briefly in the debate; but before the vote was taken on the motion, the bill was laid over until to-morrow.

The bill from the other House for the relief of James May, and the representatives of William

APRIL, 1822.

Proceedings.

SENATE.

Macomb, was taken up and discussed at some length, and then ordered to a third reading, ayes 17, noes 8.

FRIDAY, April 26.

Mr. NOBLE submitted the following motion for consideration :

Resolved, That the Secretary of War be directed to prepare and report to the Senate, at the next session of Congress, the number of persons placed upon the pension list up to the 4th of September next, by virtue of the act, entitled "An act to provide for certain persons engaged in the land and naval service of the United States, in the Revolutionary war," approved March 18, 1818, and the act in addition to the act aforesaid, approved May 1, 1820; that the Secretary of War, in giving the number aforesaid, distinguish between those who served in the war of the Revolution until the end thereof, and those who served for the term of nine months, or longer, at any period of the war; and the number of the officers who receive twenty dollars per month be stated separate from the number aforesaid.

The Senate proceeded to consider the motion of the 25th instant, for requesting the President of the United States to communicate to the Senate the report of the Attorney General relative to persons (citizens of the United States) who have been charged with or suspected of introducing any slaves into the United States, contrary to existing laws; and agreed thereto.

The Senate proceeded to consider the report of the Committee of Commerce and Manufactures, to which was referred the act of the Legislature of Mississippi, making appropriations for the Natchez hospital; and, on motion, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of the officers, volunteers, and other persons engaged in the late campaign against the Seminole Indians;" and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act confirming the title to a tract of land to Alzira Dibrel and Sophia Hancock;" in which bill they request the concurrence of the Senate. They concur in the amendment of the Senate to the bill, entitled "An act making appropriations for the public buildings," with an amendment; in which they request the concurrence of the Senate. They recede from their disagreement to the fourth and fifth of the amendments of the Senate to the bill, entitled "An act making appropriations for the support of Government for the year 1822," and insist on their disagreement to the ninth.

The Senate proceeded to consider the amendment of the House of Representatives to the amendment of the Senate to the bill, entitled "An act making appropriations for the public buildings," and concurred therein.

The bill last brought up from the House of Representatives for concurrence was read twice by

unanimous consent, and referred to the Committee on Public Lands.

The amendment to the bill, entitled "An act making appropriations for the support of the Navy of the United States, for the year 1822," having been reported by the Committee correctly engrossed, the bill was read a third time as amended.

Resolved, That this bill pass with an amendment. The title was amended by adding thereto "and for other purposes."

Ordered, That the Secretary request the concurrence of the House of Representatives in the amendments.

The Senate resumed, in Committee of the Whole, the bill for the relief of Joseph Forrest, (directing the payment to him of the sum of four thousand dollars, being the value of a vessel lost by the petitioner while conveying a donation of provisions from the Government of the United States to the distressed inhabitants of Caraccas, in the year 1812.)

A good deal of debate took place on the merits of this claim, after which the bill was laid over to Monday.

The Senate next took up the bill from the House of Representatives to revive and continue in force for two years the acts of April 16, 1816, and March 3, 1819, concerning the allowance of pensions upon a relinquishment of bounty land.

Mr. NOBLE moved the indefinite postponement of the bill, and supported his motion by a speech of considerable length. Messrs. LOWRIE, STOKES, and TALBOT, joined in the debate on this motion, which continued for some time, when, the question being taken, the motion prevailed, and the bill was rejected.

The bill from the other House, to repeal the act concerning vaccination, was taken up. The considerations which gave rise to this bill, and the reasons which rendered its passage expedient, (similar to those reported to the House of Representatives by its committee, and urged in that House,) were submitted by Mr. SMITH; and, after some remarks by Mr. LLOYD, the bill was, at his suggestion, postponed to Monday.

The bill from the other House, providing that hereafter no Treasury note shall be received in payment on account of the United States, or paid or funded, except at the Treasury of the United States, was taken up, and, after a few explanatory remarks by Mr. MACON, the bill was ordered to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making an appropriation to defray the expenses of missions to the independent nations on the American continent; and, on motion, the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The bill making appropriations for the Navy, and the bill for the relief of James May and the representatives of William Macomb, were severally read the third time, passed, and returned to the other House.

The Senate took up the message from the House of Representatives, announcing that they

SENATE.

Indian Trade—Bank Deposites.

APRIL, 1822.

insist on their disagreement to that amendment of the appropriation bill, which proposes an appropriation of nine thousand dollars for the repairs of the Cumberland road; and, on motion, the Senate resolved to recede from said amendment.

The Senate took up the report of the Committee of Conference (made by Mr. WALKER yesterday) on the amendment made by the House of Representatives to the bill providing for paying to the States of Missouri, Mississippi, and Alabama, three per cent. of the net proceeds of the sales of public lands in the same (which report recommends the adoption, with some modification, of the amendment of the House;) and the Senate agreed thereto.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

I transmit to the Senate, agreeably to their resolution yesterday, a report from the Secretary of State, with copies of the papers requested by that resolution, in relation to the recognition of the South American Provinces.

JAMES MONROE.

WASHINGTON, April 26, 1822.

The Message and documents were read and ordered to be printed.

INDIAN TRADE.

The Senate resumed, in Committee of the Whole, the consideration of the Indian Trade Bill. Mr. BENTON withdrew the amendment he offered yesterday, with the view of giving way for the following, which Mr. LOWRIE offered as a substitute for the first section:

"That the seventh section of the act, entitled 'An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers,' shall be, and the same is hereby, repealed; and, from and after the passing of this act, it shall be lawful for the marshals of the respective States, and Superintendents of Indian Affairs in the Territories, to grant licenses to trade with Indian tribes; which licenses shall be granted to citizens of the United States, and to none others, taking from them bonds with securities in the penal sum not exceeding five thousand dollars, proportioned to the capital contemplated and conditioned for the due observance of the laws regulating trade and intercourse with the Indian tribes: and said licenses may be granted for a term not exceeding seven years, for the trade with the remote tribes of Indians beyond the Mississippi, and two years for the trade with all the other tribes. And the marshals and superintendents shall return to the Secretary of War within each year an abstract of all licenses granted, showing by and to whom, when and where granted, with the amount of the bonds and capital employed to be laid before Congress at the next session thereof. For which the marshals and superintendents shall each receive, from the applicants, five dollars each, license granted and abstract of proceedings."

After a short discussion, the amendment was ordered to be printed, and the bill was postponed to Monday.

BANK DEPOSITES.

Mr. HOLMES, of Maine, from the Committee on Finance, reported the following bill:

A bill for the disposition of certain special bank deposits.

Be it enacted, &c., That it shall be lawful for the Secretary of the Treasury, with the approbation of the President of the United States, to make such disposition of the public money due by banks which have suspended payment, and usually denominated special deposits, as may be deemed most advantageous to the public interest: *Provided,* That no disposition shall be made which shall not be calculated to insure the payment into the Treasury of the principal sums at this time due by the Bank of Kentucky and its branches, the Bank of Vincennes, the Bank of Missouri, the Bank of Edwardsville, the German Bank of Wooster, the Bank of Muskingum, the Miami Exporting Company, the Bank of Cincinnati, the Farmers' and Manufacturers' Bank of Chillicothe, the Farmers' Bank of Canton, the Lebanon Miami Exporting Company, the Union Bank of Pennsylvania, the Bedford Bank of Pennsylvania, the Huntingdon Bank of Pennsylvania, the Centre Bank of Pennsylvania, and the Elkton Bank of Maryland.

The bill was twice read by general consent, and the Senate adjourned to Monday.

MONDAY, April 29.

Mr. HOLMES, of Maine, gave notice that tomorrow he should ask leave to introduce a bill to relieve the people of the Territory of Florida from oppressive taxes.

On motion, by Mr. JOHNSON, of Kentucky, *Ordered,* That the Committee on Roads and Canals, to which was referred the resolution of the General Assembly of the State of Illinois, respecting a canal; the resolution of the Legislature of the State of New York, instructing their Senators to call the attention of the General Government to the great importance of improving the navigation of the Hudson river; the memorial of the President and Directors of the Chesapeake and Delaware Canal Company; the memorial of the Legislature of the State of Alabama, respecting the improvement of the navigable waters in that State; and, also, the petition of W. G. D. Worthington, and others, of Florida, praying a road may be formed from the city of St. Augustine to Pensacola, be discharged from the further consideration thereof respectively.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred the act of the Legislature of Mississippi, making appropriations for the Natchez hospital; and, on motion, it was laid on the table.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act explanatory of an act, entitled 'An act authorizing the settlement of the accounts between the United States and Richard O' Brien, late American Consul at Algiers;'" a bill, entitled "An act for the preservation and repair of the Cumberland road;" a bill, entitled "An act to provide for the prompt settlement of accounts therein mentioned, and for the punishment of the crime of perjury in certain cases;" a bill, entitled "An act for the relief of certain insolvent debtors;" and,

APRIL, 1822.

South American States.

SENATE.

also, a bill, entitled "An act to provide for the appointment of deputy collectors of the customs;" in which bills they request the concurrence of the Senate.

The Senate proceeded to consider the motion of the 26th instant, for certain information respecting Revolutionary pensioners; and the same having been modified, was agreed to, as follows:

Resolved, That the Secretary of War be directed to prepare and report to the Senate, at the next session of Congress, the number of persons placed upon the pension list, up to the 4th of September next, by virtue of the act, entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary War," approved March 18, 1818, and the act in addition to the act aforesaid, approved May the 1st, 1820; that the Secretary of War, in giving the number aforesaid, distinguish between those who enlisted to serve during the war, and those for any shorter period, stating the number of each, and the time served, and the number of the officers who receive twenty dollars per month.

The bill to alter the times and places of holding the district court of the district of New Jersey, was considered in Committee of the Whole, and ordered to be engrossed for a third reading.

The Senate next took up the bill from the House of Representatives providing for the payment of damages sustained by the loss of horses, &c., in the Seminole war by the Tennessee volunteers.

The Committee of Claims of the Senate, to whom this bill had been referred, recommended its indefinite postponement; on which question a debate of considerable duration took place. Messrs. EATON and WILLIAMS, of Tennessee, advocated the bill, and Messrs. RUGGLES, CHANDLER, and BARTON, opposed it.

The question being taken on postponing the bill indefinitely, it was negatived—yeas 13, nays 24. The bill was then laid on the table.

SOUTH AMERICAN STATES.

The Senate, according to the order of the day, took up, in Committee of the Whole, the bill from the House of Representatives making an appropriation of \$100,000 to defray the expenses of missions to the independent nations on the American continent.

The amendment reported by the Committee of Foreign Relations to the bill, (to increase the appropriation to \$110,000, and subjecting the bill specifically to the limitations of the general law concerning the compensation of public Ministers,) was negatived—Mr. KING, of New York, having expressed the opinion that they were unnecessary.

Mr. SMITH, of South Carolina, proposed to amend the bill by adding thereto the following proviso:

"*Provided, nevertheless*, That no money shall be drawn from the Treasury for that purpose until the President shall be fully satisfied that such missions will not interrupt the friendly relations of the United States."

And the question being taken on the adoption of this amendment, it was decided in the negative, as follows:

YEAS—Messrs. Chandler, Eaton, Holmes of Mississippi, Lloyd, Macon, Ruggles, Smith, Taylor, and Williams of Mississippi—9.

NAYS—Messrs. Barbour, Barton, Benton, Brown of Louisiana, Brown of Ohio, Dickerson, Findlay, Gailard, Holmes of Maine, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lanman, Lowrie, Morrill, Palmer, Parrott, Pleasants, Rodney, Seymour, Stokes, Talbot, Van Buren, Walker, Ware, and Williams of Tennessee—28.

Mr. EATON proposed to amend the bill so that the President should not appoint any Minister but with the advice and consent of the Senate.

Mr. KING, of New York, said such an amendment could not be necessary, because the Constitution of the United States was sufficiently explicit on the subject. It was only in appointments that become vacant during the recess that the President was authorized to exercise the right of appointing to office. In original appointments, where there had not been an incumbent of the office, such a power under the Constitution did not attach to the Executive, and hence could not be exercised. It was quite unnecessary, therefore, to provide, by any statutory provision, for that which was already sufficiently guarded by the Constitution.

Mr. E. was aware that the views of the gentleman were correct. He had no doubt but that the correct meaning of the Constitution was such as was stated by Mr. KING; but, however this fact might be, it was not to be disguised that the President of the United States had, by the course he had pursued on a former occasion, manifested a different understanding of the Constitution. Mr. Madison had nominated Ministers to negotiate the Treaty of Ghent in the recess of the Senate; and these were not vacancies, but original appointments. If this had been acquiesced in by the Senate, and such he understood had been the case, it might be considered as authority for the Executive to adopt that course again. Such a course he thought unauthorized, and he wished, by the adoption of the amendment proposed, to say so. The Senate should retain the powers that belonged to it; nor was it less material that it should judge of the merits and qualifications of those who might be appointed.

Mr. HOLMES, of Maine, remarked that the Constitution was certainly definite enough upon this subject; the amendment proposed could not make it more so; and he was altogether unwilling, where the rule was prescribed already by an instrument, from which neither the President nor this body had a right to depart, to attempt either to enlarge it, or to declare what should or should not be its true construction. The President was competent to judge of this matter without any opinion being offered by the Senate.

Some remarks were offered by Messrs. WALKER and KING, of Alabama, as to the practice of the Senate, the intent of the Constitution, &c.; when

Mr. EATON observed, that, having referred to the Executive Journal of the Senate, from which the injunction of secrecy had been removed, he

SENATE.

Proceedings.

MAY, 1822.

had found that the principle acted on by Mr. Madison, in relation to the Ministers who formed the Treaty of Ghent, had not been acquiesced in, but had been protested against by the Senate; it was, therefore, not to be viewed as establishing any precedent, and he would withdraw the amendment he had offered.

The question was then taken on ordering the bill to be read a third time, and was decided in the affirmative, as follows:

YEAS—Messrs. Barbour, Barton, Benton, Brown of Louisiana, Brown of Ohio, Chandler, Dickerson, Eaton, Edwards, Findlay, Gaillard, Holmes of Maine, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lanman, Lowrie, Morril, Noble, Palmer, Parrott, Pleasants, Rodney, Ruggles, Seymour, Southard, Stokes, Talbot, Taylor, Thomas, Van Buren, Van Dyke, Walker, Ware, Williams of Mississippi, and Williams of Tennessee—39.

NAYS—Messrs. Lloyd, Macon, and Smith—3.

TUESDAY, April 30.

Mr. HOLMES, of Maine, from the Committee on Finance, to which was referred the bill, entitled "An act further to amend the several acts relative to the Treasury, War, and Navy Departments," reported the same without amendment.

On motion, by Mr. HOLMES, of Maine, the Committee on Finance, to which was referred the Message from the President of the United States recommending an appropriation for an Indian treaty, were discharged from the further consideration thereof.

On motion, by Mr. RUGGLES, the Committee of Claims, to which was referred the petition of William Biggs, praying remuneration for services rendered during the Revolutionary war, were discharged from the further consideration thereof.

Mr. HOLMES, of Maine, agreeably to notice, having obtained leave, introduced a bill to relieve the people of Florida from the operation of certain ordinances. [This bill propose to repeal the ordinance of Governor Jackson, of July 18, 1821, concerning naturalization, and the ordinance of the City Council of St. Augustine, of October 19, 1821; imposes fines and imprisonment on any person who shall hereafter attempt to enforce said ordinance; and provides for refunding to the people of Florida all moneys which they have paid under said ordinances.] The bill was twice read and referred to the Committee on the Judiciary.

The following bills, brought up yesterday for concurrence, were severally twice read and referred, viz: A bill to provide for deputy collectors of the customs; a bill explanatory of the act authorizing a settlement of the accounts of Richard O'Brien; a bill in addition to the act for the prompt settlement of public accounts; a bill for the preservation and repair of the Cumberland road; and a bill extending to non-residents of the District of Columbia, the benefits of the insolvent acts in operation in said District.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, vesting in the respective States the right of the United States to

all fines assessed for the non-performance of militia duty during the last war, and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The bill making an appropriation to defray the expense of missions to the independent nations of the American continent, was read the third time, passed, and returned to the other House.

Mr. NOBLE (who was absent yesterday when the yeas and nays were taken on this bill,) obtained leave to record his vote in its favor.

The Senate, resumed, as in Committee of the Whole, the consideration of the bill for the relief of Joseph Forrest, and the further consideration thereof was postponed until to-morrow.

The engrossed bill to alter the times and places of holding the district court of the district of New Jersey, was read the third time, passed, and sent to the other House.

The Senate resumed, as in Committee of the Whole, the consideration of the bill providing for paying for horses, &c., lost in the Seminole war.

Mr. WARE moved to amend the bill by adding the following section, which he supported at considerable length:

SEC. 3. And be it further enacted, That any person employed in the transportation of baggage, during the said campaign against the Seminole Indians, who sustained damage by reason of having his work horse taken and converted into a pack horse, or by reason of the abandonment of any wagon or other carriage employed as aforesaid, shall be allowed and paid the value thereof.

After a good deal of discussion, this amendment was agreed to in Committee of the Whole; but, after being reported to the Senate, it was disagreed to (not from any particular objection to its principle, but from the fear that it might endanger the bill at this late period of the session,) and the bill was then ordered to a third reading.

Mr. KING, of New York, from the Committee on Foreign Relations, reported the following bill, which was read:

Be it enacted, &c., That on satisfactory evidence being given by the President of the United States, that the ports in the islands, or colonies, in the West Indies, under the dominion of Great Britain, have been opened to the vessels of the United States, the President shall be, and hereby is, authorized to issue his proclamation, declaring that the ports of the United States shall thereafter be open to the vessels of Great Britain, employed in the trade and intercourse between the United States and such islands or colonies, subject to such reciprocal rules and restrictions as the President of the United States may by such proclamation make and publish, any thing in the laws, entitled "An act concerning navigation," or an act, entitled "An act supplementary to an act concerning navigation," to the contrary notwithstanding.

And be it further enacted, That this act shall continue in force to the end of the next session of Congress, and no longer.

WEDNESDAY, May 1.

Mr. LANMAN submitted the following resolution: *Resolved,* That Robert Tweedy, Tobias Simpson, and George Hicks, assistants to the Sergeant-at-Arms

MAY, 1822.

Duties on French Vessels.

SENATE.

and Doorkeeper of the Senate, be paid out of the contingent fund two dollars a day for each day they may have attended the Senate during the present session of Congress; and that Henry Tims, jun., be allowed one hundred dollars for his attendance during the present session.

The resolution was read, and passed to the second reading.

Mr. LANMAN also submitted the following resolution:

Resolved, That there be paid out of the contingent fund, to Robert Tweedy, Tobias Simpson, and George Hicks, the sum of one hundred and fifty dollars, for extra services; and that the Secretary of the Senate be authorized to employ, during the recess of the Senate, a suitable person to attend his office, and to take care of the interior of the north wing of the Capitol, to be paid a compensation not exceeding one dollar and fifty cents per day, out of the contingent fund.

The resolution was read, and passed to the second reading.

The Senate resumed, in Committee of the Whole, the bill to amend the act of 1802, regulating trade and intercourse with the Indian tribes; the amendment of Mr. LOWRIE being under consideration.

MESSRS. BENTON, EDWARDS, and LANMAN supported this amendment at considerable length, and Mr. JOHNSON, of Louisiana, opposed it; after which the amendment was agreed to, and the bill was ordered to be engrossed for a third reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In the Message to both Houses of Congress, at the commencement of their present session, it was mentioned that the Government of Norway had issued an ordinance for admitting the vessels of the United States and their cargoes into the ports of that Kingdom, upon the payment of no other or higher duties than are paid by Norwegian vessels, of whatever articles the said cargoes may consist, and from whatever ports the vessels laden with them may come.

In communicating this ordinance to the Government of the United States, that of Norway has requested the benefit of a similar and reciprocal provision for the vessels of Norway and their cargoes, which may enter the ports of the United States.

This provision being within the competency only of the legislative authority of Congress, I communicate to them, herewith, copies of the communications received from the Norwegian Government in relation to the subject, and recommend the same to their consideration.

JAMES MONROE.

WASHINGTON May 1, 1822.

The Message and documents were read, and referred to the Committee on Foreign Relations.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with a resolution of the Senate, requesting the President of the United States to cause to be laid before the Senate certain information respecting the practical operation of the system of subsisting the army under the provisions of the act passed the 14th

of April, 1818, &c., I herewith transmit a report from the Secretary of War, furnishing the information required.

JAMES MONROE.

WASHINGTON, April 30, 1822.

The Message and documents were read, and referred to the Committee on Military Affairs.

Mr. SMITH, from the Committee on the Judiciary, to which was referred the bill to relieve the people of Florida from the operation of certain ordinances, reported the same without amendment.

Mr. BARBOUR, from the Committee on the District of Columbia, to which was referred the bill, entitled "An act for the relief of certain insolvent debtors," reported the same without amendment.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Joseph Forrest; and, on motion, it was laid on the table.

The bill from the other House providing payment for horses, &c., lost in the Seminole war, was read a third time, passed, and returned to the House of Representatives.

MESSRS. EDWARDS, SOUTHARD, and VAN DYKE, who were not in their seats when the vote was taken on the appropriation for Ministers to South America, obtained leave to record their names in favor of the recognition of the South American States.

VACCINATION.

The bill from the House of Representatives to repeal the act concerning vaccination was next resumed.

Mr. LLOYD laid before the Senate an explanatory letter from the late vaccine agent, (Dr. Smith,) and moved that the bill with the letter be recommended; but, after some debate, this motion was lost.

It was then moved to postpone the bill indefinitely; and a debate of considerable duration followed, in which MESSRS. MORRIL, MACON, LLOYD, DICKERSON, HOLMES, of Maine, EATON, and others, took part. This motion was also lost; and then the bill was ordered to a third reading, by the following vote:

YEAS—Messrs. Barbour, Barton, Benton, Brown of Louisiana, Brown of Ohio, Chandler, Dickerson, Findlay, Gaillard, Holmes of Maine, Holmes of Mississippi, King of Alabama, King of New York, Lanman, Lloyd, Lowrie, Macon, Pleasants, Rodney, Smith, Stokes, Talbot, Taylor, Thomas, Van Dyke, Walker, Ware, Williams of Mississippi, and Williams of Tennessee—29.

NAYS—Messrs. Eaton, Edwards, Knight, Morrill, Parrott, and Ruggles—9.

DUTIES ON FRENCH VESSELS.

The bill in addition to the acts concerning navigation, having been previously read a second time, was taken up in Committee of the Whole.

Mr. KING, of New York, moved the addition of the following section:

SEC. 2. *And be it further enacted*, That, in the event of the signature of any treaty or convention concerning the navigation or commerce between the

SENATE.

Militia Fines.

MAY, 1822.

United States and France, the President of the United States be, and he is hereby authorized, should he deem the same expedient, by proclamation, to suspend, until the end of the next session of Congress, the operation of the act, entitled "An act to impose a new tonnage duty on French ships and vessels, and for other purposes;" and also to suspend, as aforesaid, all other duties on French vessels, or the goods imported in the same, which may exceed the duties on American vessels, and on similar goods imported in the same.

Mr. KING remarked that this section was intended to enable the President of the United States to meet France, in case that Government should, before the next session of Congress, remove the existing commercial difficulties between the two countries, by repealing what was usually termed her "eighteen dollar act." He did not say what probability there was of a removal of these difficulties; he could only say there was a hope, an anxious hope, entertained for their removal—and, should that event happily occur, the section now proposed would enable the President to meet promptly any steps which France might take towards so desirable an end.

The amendment was adopted without objection, and the bill was ordered to be engrossed for a third reading.

MILITIA FINES.

The bill vesting in the respective States the right of the United States to all fines assessed for the non-performance of militia duty during the late war, was taken up in Committee of the Whole. The bill was amended, on motion of Mr. FINDLAY, so as to limit it to the State of Pennsylvania, and after a short discussion, the bill was ordered to be engrossed for a third reading.

While the above bill was under discussion—

Mr. LOWRIE said, that, when he first introduced this bill, he had given an abstract of some of the facts and principles involved in it. At that time he had intended, when the bill came up for consideration, to have given a full and detailed exposition of the whole subject; but, as the session was so near a close, he would limit his remarks as much as justice to the subject would permit.

The United States, said Mr. L., could not have collected these fines but for the assistance of the State. This is a fact to which I wish to call the particular attention of the Senate.

At the time these delinquencies happened, there was no law on this subject but the act of the Congress of 1795. That act provided for the punishment of delinquents by courts martial, but did not specify how, when, or by whom, such courts martial should be selected and organized. To every practical purpose, therefore, on this point, the act of Congress was a dead letter, and any individual, with the knowledge of this circumstance, might set at defiance every requisition made for his services in defence of the country.

The principles of law which govern this subject are now, in some measure, settled by the decision of the Supreme Court. The distinction is there laid down and supported, between an order and a requisition. If the Secretary of War, under the

authority of the President, issues an order to any officer holding a military commission under the State authority, all fines, arising from delinquencies under that order, belong, of right, to the United States. But if a requisition is made to the Executive of the State, the fines arising from delinquencies belong to the State.

These principles have also received the sanction of the Executive branch of this Government, to an extent sufficient for my present object. During the time my colleague was Governor of Pennsylvania, some doubts were entertained whether the power of remitting these fines was in the President of the United States or the Executive of the State. On the 8th January, 1818, in a letter from the Secretary of the Commonwealth, the opinion of the President was requested on this point. To this request the following answer was given:

"DEPARTMENT OF STATE, April 14, 1818.

"SIR: I am directed, in answer to your letter of the 8th January last, to state to you, as the opinion of the President, that the power of remitting the fines, in the cases referred to therein, is not vested in him, but in the Governor of the Commonwealth.

"As, in coming to this conclusion, it was necessary to give a particular examination, both of the laws of the United States and the statute of Pennsylvania relating to the subject, and as it was, for some time, expected that a decision of the Supreme Court of the United States, in a case involving the question, might have rendered any further proceedings, on the part of the President, in relation to it, unnecessary, this answer has been, much to his regret, delayed until this time. In communicating it to you, I am further directed to request you would manifest to the Governor of Pennsylvania, the high satisfaction he has taken in remarking the promptitude and efficiency with which the requisition upon the Commonwealth, on the occasion to which these transactions refer, was answered and complied with, and the liberal and patriotic spirit with which the State contributed her support to the defence of the country.

I have the honor to be, &c.,

"JOHN QUINCY ADAMS."

As the case is now decided, the State acted gratuitously, in placing these fines at the disposition of the General Government. But, it must be recollected, that, at that period, the law was not settled. When the militia law of the State passed, in 1814, I was then in that Legislature. This very provision embarrassed the Legislature; and some of our members of Congress were requested to procure such information as was at Washington, on this subject. But nothing satisfactory was received, and the Legislature of the State was obliged to act from the best lights they had. It will, at least, be admitted, that they took the most patriotic side. It was no part of the policy of that State to discuss principles of right with the Federal Government, when the enemy was at the door. The Legislature, by the act of 1814, supplied the defect in the act of Congress of 1795, and, lest the public service should be injured, they agreed to your unreasonable provision, that the United States should be furnished with the men, and have the fines besides.

MAY, 1822.

Proceedings.

SENATE.

It is proper to observe, that every call made upon Pennsylvania during the late war, was in the form of a requisition upon the Governor. Of this gentlemen can be satisfied by turning to the documents printed by order of the Senate.

A strong argument in favor of vesting these fines in the State, arises from the difficulty attending their collection by the United States. This is evident from the correspondence of the Comptroller of the Treasury with the different marshals, as printed by the House of Representatives, number twenty-five, of the present session. No money from these fines has been paid into the Treasury, and a neglect of duty on the part of the Comptroller has elsewhere been alleged as the reason. On a careful examination of that correspondence, I do not find that this officer is liable to the censure he has received. The delinquents were numerous, and many of them rich. A combined exertion was made for the evasion of these fines. Talents of the first order were engaged in their defence. From one court to another, and from year to year, was the subject prosecuted and defended before the judiciary of the country. In this state of things it was not to be expected that an officer called to decide on new principles, and to discharge new duties, could always see his way clear. That the business engaged his attention is evident; that he did not succeed, is accounted for in the intrinsic difficulty of the subject.

The State of Pennsylvania furnished more men than were required. With this single fact to support me, though there was nothing else, and even if the law was on the other side, I would have a right to expect success. The number required from the State was 20,669; the number furnished 21,926, giving an excess of 1,257. To these are to be added five companies of twelve months' volunteers, who served on the Northwestern frontier in 1812 and 1813, of 260 men, and three companies of the same kind of force, 160 men, who served on the Niagara frontier in 1814; making, in all, an excess of 1,677 in favor of the State.

The three companies who served under General Brown, have been noticed by him in terms corresponding with their bravery and good conduct. The five companies who served on the Northwestern frontier, have never yet been noticed as their important and severe services merited. Three companies were of horse, from Westmoreland, Alleghany, and Fayette, and two of foot from Westmoreland and Alleghany. To notice all their sufferings and all their acts of bravery, during twelve months of hard and faithful service, would consume too much of the time of the Senate. Much was expected when the bravest of the country were commanded by such men as Alexander, Butler, Markle, McClelland, and Warren, and the public expectation was not disappointed. These men served their country as soldiers, not mercenary ones, but for the mere sake of serving their country, and gaining a reputation of having served it well.

In addition to these under the authority of the State, the 1st brigade of the 16th division, which

adjoins Lake Erie, was called out en masse during the harvest of 1813, and in the Winter of 1814 the whole division was also called en masse, for the defence of the fleet on Lake Erie. Commodore Perry, in his correspondence with Major General Meade, states explicitly that, in 1813, it was owing to these militia that the British did not destroy his ships before he got them over the bar of the harbor at Erie. Both these calls being made en masse, the one in harvest, and the other in the Winter, were extremely distressing to that newly settled part of the State.

The gentleman from Maine (Mr. CHANDLER) wishes to have the bill so amended that the United States will be at no expense on this subject. For the sake of accommodation, my colleague and myself are willing to receive that amendment. It is proper, however, to remark, that the practice of this Government, as it regards other States, has been different. In New York, large sums have already been paid for the expense of courts martial; and in the present appropriation bill there is an item for the same object. But there is another principle which we do not give up, and that is, the amount of fines received by your marshal over the expense of collection. The fines paid to the marshal or his deputies must, upon every just principle, be considered as having been paid into the Treasury. If the State has a right to part of the fines, she has a right to the whole; and the obligations of the United States to refund the money is not affected by the circumstance that your officer mistook his own pocket for the public treasury.

It has also been objected that, by vesting these fines in the State, the individual delinquents would be released; and an unwillingness is expressed that this should be the case. It is true that, if these fines be transferred to the State, she may release them; but it is also true, that her Governor may do the same thing at this moment. It will rest with the State what disposition she will make of them. They may be applied for promoting education, agriculture, or internal improvement in the different counties. In this way, although the delinquents will not escape, the payment will be made more easy, and the advantages will, in part, benefit themselves. The Legislature of the State will have the control of this business, and we may safely leave it in their hands.

THURSDAY, May 2.

On motion by Mr. RUGGLES, the Committee of Claims, to which was referred the petition of Samuel F. Hooker, of New York, praying compensation for certain naval supplies; and, also, his petition praying indemnification for property captured by the British; the petition of John H. Piatt; the petition of John B. Hogan; the petition of Samuel Hodgson; the memorial and petition of Francis Henderson and family; and, also, the petition of the inhabitants of the town of Mobile, in Alabama, were discharged from the further consideration thereof respectively.

On motion by Mr. DICKERSON, the Committee

SENATE.

Proceedings.

MAY, 1822.

on Commerce and Manufactures, to which was referred the Message of the President of the United States relative to the survey of the coast of North Carolina; the memorial of John R. Wheaton, and others; the memorial of the Pennsylvania Society for the Encouragement of American Manufactures; the petition of the Agricultural Societies of certain counties of Virginia; and, also, the petition of James Greene and Co., were discharged from the further consideration thereof respectively.

The resolution to compensate Robert Tweedy, and others, as attendants on the Senate, was read the second time, considered as in Committee of the Whole, and, no amendment having been made thereto, it was reported to the Senate, and ordered to be engrossed and read a third time.

The resolution to compensate Robert Tweedy, and others, for extra services, and to provide for a person to attend the office of the Secretary of the Senate, and to take care of the interior of the north wing of the Capitol, during the recess of the Senate, was read the second time, and considered as in Committee of the Whole, and, no amendment having been made thereto, it was reported to the Senate, and ordered to be engrossed and read a third time.

Mr. RUGGLES, from the Committee of Claims, to which was referred the bill, entitled "An act authorizing the settlement of accounts between the United States and Richard O'Brien, late American Consul at Algiers," reported the same without amendment; and, on motion, it was considered, as in Committee of the Whole, and laid on the table.

The Senate took up, in Committee of the Whole, the bill from the House of Representatives, authorizing the erection of toll-gates on the Cumberland road, and appropriating \$9,000 for repairing said road.

No amendment or objection being offered to the bill, it was reported to the Senate, and then, without debate, the bill was ordered to be read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the disposition of certain special bank desposits; and no amendment having been made thereto, it was reported to the Senate, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act further to amend the several acts relative to the Treasury, War, and Navy Departments;" and, on motion, by Mr. HOLMES, of Maine, it was laid on the table.

The PRESIDENT communicated a letter from the Postmaster General, transmitting a list of unproductive post roads for the year 1821; and the letter and list were read.

The Senate took up the report of the Committee of Commerce and Manufactures, recommending that Congress do not give its assent to an act of the Mississippi Legislature, making appropriations for the Natchez hospital.

Mr. BARBOUR moved the indefinite postpone-

ment of the report; when a debate of some length ensued, in which Mr. HOLMES, of Mississippi, made a number of remarks to show the utility of the hospital and the propriety of the act of the State for its support.

Messrs. DICKERSON, and RUGGLES supported the report; and the question being taken on the motion for postponement, it was agreed to, and the report was accordingly rejected.

The bill to relieve the people of Florida from the operation of certain ordinances passed by the American authorities there, was taken up, in Committee of the whole, Mr. CHANDLER in the chair. Mr. HOLMES, of Maine, explained the circumstances at considerable length, which gave rise to the bill, and advocated its passage. He was replied to by Messrs. EATON, and JOHNSON, of Kentucky, on certain points involving the merits of the ordinances in question; and, after some explanatory remarks by Mr. SMITH, the bill was reported, and was ordered to be engrossed for a third reading.

The bill vesting in the respective States the right of the United States to all fines assessed for the non-performance of militia duty during the last war, was read a third time, and passed.

The bill to amend an act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved 30th March, 1802, was read a third time, and passed.

The bill in addition to the act concerning navigation was read a third time, and passed.

The bill, entitled "An act to repeal the act, entitled 'An act to encourage vaccination,'" was read a third time, and passed.

The bill from the other House to repeal that section of the insolvent law of the District of Columbia, which withholds the benefit thereof from persons who have not resided in said district one year, was taken up in Committee of the Whole, Mr. PARROTT in the chair.

Mr. BARBOUR stated to the Senate the reasons which appeared to have given rise to the bill, and to have obtained for it the sanction of the other House, and which rendered its passage expedient.

Mr. EATON made some remarks against the bill, and Messrs. BARBOUR, and VAN DYKE supported it. Messrs. LLOYD, and SMITH, each added a few remarks, when, on the motion of the last named gentleman, the bill was postponed until to-morrow.

The bill from the House of Representatives, providing for the appointment of deputy collectors of the customs, was next taken up; when

Mr. HOLMES, of Maine, moved the indefinite postponement of the bill, and supported his motion with some remarks—when the question was decided in the affirmative; and the bill was rejected.

Mr. SMITH submitted the following resolution for consideration, which was read:

Resolved, That there be added to the rules of the Senate the following rule:

"When the yeas and nays shall be taken on any question, in pursuance of the sixteenth rule of the Senate, each member, when called, shall distinctly answer, from his seat, his yea or nay; but no member shall be permitted to give his yea or nay, under any

MAY, 1822.

District of Columbia

SENATE.

circumstances whatever, who shall be absent from his seat at the time when his name shall be called."

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act providing for the disposal of the public lands in the State of Mississippi, and for the better organization of the land districts in the States of Alabama and Mississippi;" a bill entitled "An act to extend the charter of the Mechanics' Bank of Alexandria;" and also a bill entitled "An act further to regulate the Post Office Department;" in which bills they request the concurrence of the Senate.

The said three bills were read, and severally passed to the second reading.

The bill entitled "An act providing for the disposal of the public lands in the State of Mississippi, and for the better organization of the land districts in the States of Alabama and Mississippi," was read the second time by unanimous consent, and referred to the Committee on Public Lands.

The bill entitled "An act to extend the charter of the Mechanics' Bank of Alexandria, in the District of Columbia," was read the second time by unanimous consent, and referred to the Committee on the District of Columbia.

The bill entitled "An act further to regulate the Post Office Department," was read the second time, and referred to the Committee on the Post Office and Post Roads.

FRIDAY, May 3.

The resolution proposing an additional rule for conducting business in the Senate was read the second time, and considered as in Committee of the Whole; and the same having been amended, it was reported to the Senate; and, the amendment being concurred in, the resolution was ordered to be engrossed, and read a third time.

On motion by Mr. BARBOUR, three members were added to the Committee on the District of Columbia, in place of Mr. LLOYD, Mr. SOUTHARD, and Mr. D'WOLF; and Mr. BROWN, of Ohio; Mr. BARTON, and Mr. CHANDLER, were appointed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit herewith to Congress, copies of letters received at the Department of State, from the Minister of Great Britain, on the subject of the duties discriminating between imported rolled and hammered iron. I recommend them particularly to the consideration of Congress, believing that, although there may be ground for controversy with regard to the application of the engagements of the treaty to the case, yet a liberal construction of those engagements would be compatible at once with a conciliatory and a judicious policy.

JAMES MONROE.

WASHINGTON, May 1, 1822.

The Message and documents were read, and referred to the Committee on Foreign Relations.

The following resolutions were read a third time, and passed:

Resolved, That Robert Tweedy, Tobias Simpson, and George Hicks, assistants to the Sergeant-at-Arms and Doorkeeper of the Senate, be paid out of the contingent fund two dollars a day for each day they may have attended the Senate during the present session of Congress, and that Henry Tims, jr., be allowed one hundred dollars for his attendance during the present session.

Resolved, That there be paid out of the contingent fund to Robert Tweedy, Tobias Simpson, and George Hicks, the sum of one hundred and fifty dollars for extra services, and that the Secretary of the Senate be authorized to employ, during the recess of the Senate, a suitable person to attend his office, and to take care of the interior of the north wing of the Capitol, to be paid a compensation not exceeding one hundred and fifty cents per day out of the contingent fund.

The engrossed bill to relieve the people of Florida from the operation of certain ordinances; and the engrossed bill for the disposition of certain special bank deposits, were severally read a third time, passed, and sent to the House of Representatives.

The following bills from the other House were severally considered in Committee of the Whole, and subsequently ordered to a third reading, viz: The bill providing for the disposal of the public lands in the State of Mississippi, and for the better organization of the land offices in Mississippi and Alabama; the bill confirming the title of Alzira Dibrel to a tract of land; and the bill explanatory of the act for the relief of Richard O'Brien.

The bill from the House of Representatives granting certain privileges to steamships and vessels, owned by incorporated companies, was taken up in Committee of the Whole; and after some discussion, it was, on motion, indefinitely postponed, and the bill of course rejected.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act to establish certain roads and to discontinue others," in which bill they request the concurrence of the Senate.

They have also passed the bill which originated in the Senate entitled "An act vesting in the State of Pennsylvania the right of the United States to all fines assessed for the non-performance of militia duty during the late war with Great Britain," with an amendment, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendment of the House of Representatives to the bill last mentioned, and concurred therein.

The bill last brought up from the House of Representatives for concurrence, was twice read by unanimous consent, and referred to the Committee on the Post Office and Post Roads.

DISTRICT OF COLUMBIA.

The Senate resumed the consideration of the bill to extend to non-residents of the District of Columbia the privileges of the insolvent laws of the District.

A debate of considerable duration took place on this bill, (principally on a difference of opinion as to the probable operation and consequences of the bill, as well as on the question of its expedi-

SENATE.

Cumberland Road.

MAY, 1822.

ency,) in which Mr. BARBOUR supported, and Mr. SMITH opposed the bill.

Mr. EATON moved the adoption of the following proviso, and spoke to show the expediency of such an amendment:

"*Provided*, That no discharge under this act, or the act to which it is amendatory, shall operate against any creditor residing without the limits of the District of Columbia, except the creditor at whose instance the debtor may be confined."

This amendment was agreed to, and the bill was then ordered to a third reading.

CUMBERLAND ROAD.

The bill authorizing the erection of toll gates on the Cumberland Road, and making an appropriation of nine thousand dollars for the repair of said road, was read the third time.

Mr. BARBOUR rose, and observed, that, as the pending measure involved an exercise of power which extended to the utmost confines of the Constitution, and was so intimately connected with a great question, that of internal improvement, that had excited much of the attention and consideration of the people of the United States, he would take the liberty of making a few remarks before he gave his vote. Some years since, he said, the right of Congress to set apart funds for such internal improvements as the future wisdom of the Congress should direct, was asserted. A bill passed, to that effect, both branches of the Legislature, but was negatived by the Executive. In consequence of the great diversity of sentiment prevailing at that time, Mr. B. who was indisposed to extend the powers of the General Government beyond the just Constitutional limit, and esteeming it correct, in all cases of doubt, to recur to the only legitimate source of authority, the people, proposed an amendment to the Constitution. He was doomed to realize the truth of the aphorism, that a man between two stools is sure to fall. It so happened, that a majority of the Senate thought that Congress had already full power on this subject, and fearful that the people might withhold it, they voted against his proposition; some few, who thought that Congress ought not to possess this authority, also voted against it: and hence, instead of a Constitutional majority in favor of the amendment, there was a majority of two-thirds against it. From that time, Mr. B. said he determined not to give his vote in favor of the exercise of this authority by the National Legislature; and his purpose remained now unchanged. With these sentiments, upon the general subject, he was in favor of the bill now before the Senate. This measure was decided upon, said he, by our predecessors, by another generation, and is complete. Whether right or not, it is too late for us to question. The facts, said he, are these: Mr. Jefferson, deservedly highly esteemed for his correct reading of the Constitution, recommended to Congress the execution of a covenant, previously made by Congress with the State of Ohio, that a portion of the avails of the sale of public lands should be applied to the opening of roads leading to that State; provided that before any road which Congress might

prescribe should be established, the consent of the respective States, through whose territory the road might be conducted, should be obtained thereto. The States of Virginia, Pennsylvania, and Maryland, gave their consent. Mr. B. stated that he had before him the cession act of Virginia, which authorized the Government to complete, establish, and regulate this road, as to them might seem proper, in conformity with the existing law, or such law as Congress thereafter might think proper to pass. These preliminaries being effected, Congress by law established this loan. Near two millions, said Mr. B., have been expended by successive legislatures, with the sanction of three successive Presidents; and this noble monument of our enterprise and industry, this great artery of communication between the East and the West, so essential to our intercourse and our prosperity, has been completed. The only question is, Shall we enjoy it, or, from the fastidious technicality, refuse it? If your agent, in private transactions, said Mr. B., should ever exceed his powers—if the act he has performed be irrevocable, will you refuse the benefit of the act completed, although at your expense, in consequence of the doubtful propriety of the agent's conduct? The road is rapidly dilapidating—the mischievous are destroying it. It is necessary to act. To appropriate money out of the public Treasury to keep it in repair, is unjust, and involves as strongly the Constitutional question. Let those who use it pay a little pittance to keep it in repair. This is the only question. The circumstances of this case being peculiar, this measure cannot be considered as a precedent in reference to the general question. For these reasons, Mr. B. said, he should vote affirmatively.

Mr. KING, of New York, made the remark (elicited by some reference to him by Mr. BARBOUR) that he entertained no doubt, and never had, of the power of this Government to appropriate money for roads or canals, or of its power to establish a bank; and therefore he did not rely for the authority to pass this bill on the consent of any one or more States; nor did he hold that this Government could, according to the Constitution, enlarge its powers by the consent of any number of States, except in the mode constitutionally pointed out, and that was by an amendment of the Constitution itself.

The question was then taken on the passage of the bill, and was decided in the affirmative, as follows:

YEAS—Messrs. Barbour, Barton, Brown of Ohio, Chandler, Dickerson, Eaton, Edwards, Findlay, Holmes of Mississippi, Johnson of Louisiana, King of New York, Knight, Lanman, Lowrie, Morrill, Palmer, Parrott, Pleasants, Ruggles, Seymour, Talbot, Taylor, Thomas, Van Buren, Ware, Williams of Mississippi, and Williams of Tennessee—29.

NAYS—Messrs. Benton, Gaillard, King of Alabama, Macon, Smith, Stokes, and Walker—7.

SATURDAY, May 4.

On motion by Mr. PLEASANTS, the Committee on Naval Affairs, to which were referred the following subjects, to wit: The report of the Secre-

MAY, 1822.

Post Office Establishment.

SENATE.

tary of the Navy, with naval rules made January 12, 1821; the resolution concerning small vessels of war; the resolution concerning navy agents and naval supplies; the petition of George Ulmer; and the memorial of the Naval Fraternal Association; were discharged from the further consideration thereof respectively.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to amend the several acts relative to the Treasury, War, and Navy Departments;" and it was laid on the table.

The resolution proposing an additional rule for conducting business in the Senate was read a third time, and passed, as follows:

Resolved, That there be added to the rules of the Senate the following rule:

When the yeas and nays shall be taken upon any question, in pursuance of the sixteenth rule of the Senate, no member shall be permitted, under any circumstances whatever, to vote after the decision is announced from the Chair.

The Senate took up the bill from the other House to extend the charter of the Mechanics' Bank of Alexandria to the year 1836.

Mr. SMITH moved to reduce the term of the proposed extension of the charter to the year 1825, and spoke at some length against passing the bill for the longer period. Mr. WALKER also advocated the amendment, and Messrs. BARBOUR and PLEASANTS opposed it, and spoke in favor of passing the original bill. The debate continued for some time; when the amendment was negatively—ayes 10, and the bill was ordered to a third reading.

The following bills, yesterday ordered to a third reading, were severally read a third time, passed, and returned to the other House, viz:

The bill providing for the disposal of the public lands in the State of Mississippi, and for the better organization of the land districts in Mississippi and Alabama; the bill for the relief of certain insolvent debtors; the bill explanatory of the act for the relief of Richard O'Brien; and the bill confirming the title of Alzira Dibriel and Sophia Hancock to a tract of land.

Mr. THOMAS, from the Committee of Public Lands, reported a bill confirming grants to lands in the district west of Pearl river, derived from the British Government of West Florida, not subsequently granted by Spain or the United States; which bill was twice read.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of William Henderson," a bill, entitled "An act authorizing the location of certain school lands in the State of Indiana;" a bill, entitled "An act fixing the compensation of the Commissioner of the Public Buildings;" a bill, entitled "An act making further appropriations for the military service of the United States, for the year 1822, and for other purposes;" and, also, a bill, entitled "An act to provide for annuities to the Ottawas, Pottawatamies, Kickapoos, Choctaws, Kaskaskias, to Mushalatubbee, and to carry into effect the treaty

of Saganaw;" in which bills they request the concurrence of the Senate.

They have also passed the bill which originated in the Senate, entitled "An act in addition to the act concerning navigation," with amendments, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to the bill last mentioned; and they were laid on the table.

The bill, entitled "An act for the relief of William Henderson," was read the second time by unanimous consent, and referred to the Committee of Claims.

The bill, entitled "An act authorizing the location of certain school lands in the State of Indiana," was read the second time, by unanimous consent, and referred to the Committee on Public Lands.

The bill, entitled "An act fixing the compensation of the Commissioner of the Public Buildings," was read the second time by unanimous consent, and referred to the Committee on the District of Columbia.

The bill, entitled "An act making further appropriations for the military service of the United States for the year 1822, and for other purposes," was read the second time by unanimous consent, and referred to the Committee on Finance.

The bill, entitled "An act to provide for annuities to the Ottawas, Pottawatamies, Kickapoos, Choctaws, Kaskaskias, to Mushalatubbee; and to carry into effect the treaty of Saganaw," was read the second time by unanimous consent, and referred to the Committee on Indian Affairs.

The engrossed bill authorizing the purchase of 200 copies of Davis & Force's edition of the sixth volume of the Laws of the United States, being at its third reading, and on the question of reading it a third time to-day, it was objected to by Mr. MACON, and, as it requires the unanimous consent of the Senate to read a bill twice on the same day, the bill was of course rejected.

POST OFFICE ESTABLISHMENT.

The Senate took up the bill from the House of Representatives further to regulate the Post Office Establishment.

Mr. STOKES stated that he was instructed by the Committee on the Post Office and Post Roads, to move that the bill be indefinitely postponed. The bill, he said, contained some valuable provisions, but it was so loosely drawn, and was so defective in other respects, that it would require much amendment of detail, which there was not time now to enter into.

Mr. HOLMES of Maine, briefly, and Mr. BROWN of Louisiana, at some length, mentioned several objectionable features in this bill, which rendered its passage highly inexpedient, and some provisions of importance which would require a degree of examination too great for this late period of the session.

Mr. CHANDLER concurred in the propriety of the postponement.

Mr. LOWRIE enumerated some of the provisions

SENATE.

Proceedings.

MAY, 1822.

of the bill, which he considered valuable, which were easily understood, and ought to be adopted, and those thought complex and objectionable, might be omitted until the next session. He moved for the present that the bill be laid on the table. This motion was lost by the casting vote of the PRESIDENT—there being 15 for and 15 against it.

After some further debate, in which Messrs. JOHNSON of Louisiana, HOLMES of Maine, BROWN of Louisiana, RUGGLES, and STOKES, supported the indefinite postponement of the bill; and Messrs. TALBOT, LOWRIE, and KING of Alabama, opposed it, the last named gentleman renewed the motion to lay the bill on the table, with the view of taking it up on Monday; but the motion was lost, and then the bill was indefinitely postponed by a large majority.

The Senate adjourned to six o'clock in the evening.

Six o'clock in the Evening.

The Senate resumed, as in Committee of the Whole, the consideration of the bill confirming grants to lands in the district west of Pearl river, derived from the British Government of West Florida, not subsequently granted by Spain or the United States; and, on motion, it was laid on the table.

The Senate resumed the consideration of the amendments of the House of Representatives to the bill, entitled "An act in addition to the act concerning navigation," and concurred therein.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act for the relief of the representatives of John B. Dash;" a bill, entitled "An act for the relief of John B. Moody, and Samuel Moody;" a bill, entitled "An act for the relief of William Bartlett and John Stearns, owners of the schooner Angler, and Nathaniel Carver, owner of the schooner Harmony, and others;" a bill, entitled "An act for the relief of Isaac Collyer and others;" a bill, entitled "An act for the relief of Trapmaun Jahucke & Co." a bill, entitled "An act for the relief of Alexander Roddy;" a bill, entitled "An act for the relief of William N. Earle;" a bill, entitled "An act for the relief of the heirs of Edward McCarty, deceased;" a bill, entitled "An act for the relief John Byers;" a bill entitled "An act for the relief of Charles A. Swearingen;" a bill, entitled "An act for the relief of Solomon Prevost;" a bill, entitled "An act for the relief of David Cummings;" a bill, entitled "An act for the relief of Anthony Kennedy;" a bill, entitled "An act for the relief of Nathan Branson;" a bill, entitled "An act for the relief of the legal representatives of John Girault;" a bill, entitled "An act for the relief of Sally Vance;" a bill, entitled "An act for the relief of Joshua Bennett;" a bill, entitled "An act for the relief of William Dooley;" a bill, entitled "An act for the relief of John Pellett;" a bill, entitled "An act explanatory of an act for the relief of sundry citizens of Baltimore;" a bill, entitled "An act for the relief of Joshua Cannon, Reuben Hickman, and Fielding

Hickman;" a bill, entitled "An act for the relief of the legal representatives of Marie Therese;" a bill, entitled "An act for the relief of Samuel Ewings;" a bill, entitled "An act vesting in the commissioners of the counties of Wood and Sandusky the right to certain lots in the towns of Perysburgh and Croghanville, in the State of Ohio, for county purposes;" a bill, entitled "An act for the relief of John Crute;" a bill, entitled "An act to repeal part of an act passed by the State of Maryland, in the year 1784, and now in force in Georgetown, in the District of Columbia, entitled 'An act for an addition to Georgetown, in Montgomery county;'" a bill, entitled "An act to incorporate the inhabitants of Georgetown, and to repeal all acts heretofore passed for that purpose;" a bill, entitled "An act for the release of Amos Muzzy and Benjamin White, from imprisonment;" a bill, entitled "An act for the relief of Edmund Kinsey and William Smiley;" a bill, entitled "An act requiring surveyors general to give bond and security for the faithful disbursement of public money, and to limit their term of office;" a bill, entitled "An act for the relief of John Post and Farley Fuller;" a bill, entitled "An act for the relief of John Mattison;" a bill, entitled "An act for the relief of William Thompson;" a bill, entitled "An act for the relief of Susan Berzat, widow; and the legal representatives of Gabriel Berzat, deceased;" a bill, entitled "An act for the relief of the legal representatives of John Guthry, deceased;" and also a bill, entitled "An act for the relief of James Pierce;" in which bills they request the concurrence of the Senate.

The thirty-six bills last brought up from the House of Representatives, for concurrence, were read, and severally passed to the second reading. They were read the second time by unanimous consent, and referred to appropriate committees.

Mr. BARBOUR, from the Committee on the District of Columbia, to which was referred the bill, entitled "An act fixing the compensation of the Commissioner of the Public Buildings," reported the same without amendment; and, it was taken up and considered, as in Committee of the Whole, and no amendment being made thereto, it was reported to the Senate, and passed to a third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing the payment of certain certificates;" a bill, entitled "An act confirming claims to lots in the town of Mobile, and to land in the former province of West Florida, which claims have been reported favorably on, by the Commissioners appointed by the United States;" a bill, entitled "An act for the relief of Stephen Howard, Jr.;" a bill, entitled "An act for the relief of James Barron;" a bill, entitled "An act to authorize the issuing of letters patent to Richard Holden;" a bill, entitled "An act for the relief of Benjamin Desobry;" a bill, entitled "An act for the relief of William Gwynn;" a bill, entitled "An act concerning invalid pensioners;" a bill, entitled "An act for the relief of Joseph Bainbridge;" a bill, entitled "An act to authorize

MAY, 1822.

Proceedings.

SENATE.

the Secretary of State to issue letters patent to Frederick S. Warburg;" a bill, entitled "An act for the relief of William R. Maddox;" a bill, entitled "An act for the relief of Loudon Case;" a bill, entitled "An act for the relief of James Green;" a bill, entitled "An act authorizing the issuing of letters patent to Joshua Garsed;" a bill, entitled "An act for the relief of Samuel Walker, Joseph L. Dutton, John Martin, Samuel Peterson, and Hannah Peterson;" a bill, entitled "An act for the relief of Charles Campbell;" a bill, entitled "An act for the relief of Henry Lee;" a bill, entitled "An act for the relief of Peter Cadwell, and James Britten;" a bill, entitled "An act for the relief of James Brisban, and Jonah Lewis;" a bill, entitled "An act for the relief of James Miller, John C. Elliott, Noah Hampton, James Erwin, and Jonathan Hampton;" a bill, entitled "An act for the relief of Benjamin Stephenson;" and, also, a resolution authorizing the delivery of rifles promised to Captain Aikin's volunteers, at the siege of Plattsburg; in which bills and resolution, they request the concurrence of the Senate.

The twenty-one bills, and the resolution last mentioned, were read, and severally passed to the second reading.

MONDAY, May 6.

Mr. WILLIAMS, from the Committee on Military Affairs, to which was referred the bill, entitled "An act for the relief of Joshua Cannon, Reuben Hickman, and Fielding Hickman;" reported the same with an amendment, which was read; and the bill, together with said amendment, was taken up and considered as in Committee of the Whole, and the amendment being agreed to, the bill was reported to the Senate accordingly; and being concurred in, was ordered to be read a third time as amended.

Mr. WILLIAMS, from the same committee, to which was referred the bill, entitled "An act for the relief of Joshua Bennett," reported the same without amendment, and it was considered as in Committee of the Whole, and laid on the table.

Mr. HOLMES, of Maine, from the Committee on Finance, to which was referred the bill, entitled "An act for the relief of the representatives of John B. Dash;" the bill, entitled "An act for the relief of John M. Moody, and Samuel Moody;" the bill, entitled "An act for the relief of William Bartlett, and John Stearns, owners of the schooner Angler; and Nathaniel Carver, owner of the schooner Harmony, and others;" the bill, entitled "An act for the relief of Isaac Collyer and others;" the bill, entitled "An act for the relief of the legal representatives of John Guthrie, deceased;" and, also, the bill, entitled "An act for the relief of John Crute;" reported the same, respectively, without amendment.

Mr. THOMAS, from the Committee on Public Lands, to which was referred the bill entitled "An act authorizing the location of certain school lands in the State of Indiana;" the bill, entitled "An act for the relief of the representatives of John Girault;" the bill, entitled "An act for the relief of

Sally Vance;" the bill, entitled "An act for the relief of the legal representatives of Marie Therese;" and, also, the bill, entitled "An act for the relief of Susan Berzat, widow, and the legal representatives of Gabriel Berzat, deceased;" reported the same, respectively, without amendment.

Mr. RUGGLES, from the Committee of Claims, to which was referred the bill, entitled "An act for the relief of William Henderson;" the bill, entitled "An act for the relief of William N. Earle;" the bill, entitled "An act for the relief of the heirs of Edward McCarty, deceased;" the bill, entitled "An act for the relief of John Byers;" the bill, entitled "An act for the relief of James Pierce;" the bill, entitled "An act for the relief of Charles A. Swearingen;" the bill, entitled "An act for the relief of Solomon Prevost;" the bill, entitled "An act for the relief of David Cummings;" the bill, entitled "An act for the relief of William Dooley;" and, also, the bill, entitled "An act for the relief of John Pellett;" reported the same, respectively, without amendment.

Mr. SMITH, from the Committee on the Judiciary, to which was referred the bill, entitled "An act for the relief of Anthony Kennedy;" the bill, entitled "An act for the relief of Nathan Branson;" the bill, entitled "An act explanatory of an act for the relief of sundry citizens of Baltimore;" the bill, entitled "An act for the release of Amos Muzzy and Benjamin White, from imprisonment;" the bill, entitled "An act for the relief of Edmund Kinsey and William Smiley;" the bill, entitled "An act requiring Surveyors General to give bond and security for the faithful disbursement of public money, and to limit their term of office;" the bill, entitled "An act for the relief of John Post and Farley Fuller;" and, also, the bill, entitled "An act for the relief of John Mattison;" reported the same, respectively, without amendment.

Mr. DICKERSON, from the Committee on Commerce and Manufactures, to which was referred the bill, entitled "An act for the relief of Trappmaun Jahucke and Company;" and, also, the bill, entitled "An act for the relief of Alexander Roddy;" reported the same, respectively, without amendment.

Mr. JOHNSON, of Louisiana, from the Committee on Indian Affairs, to which was referred the bill, entitled "An act to provide for annuities to the Ottawas, Pottawatamies, Kickapoos, Choc-taws, Kaskaskias, to Mushalutubbee, and to carry into effect the treaty of Saganaw;" reported the same without amendment, and it was taken up and considered as in Committee of the Whole; and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

Mr. PLEASANTS, from the Committee on Naval Affairs, to which was referred the bill, entitled "An act for the relief of William Thompson;" reported the same without amendment.

The bill, entitled "An act for the relief of Henry Lee;" the bill, entitled "An act for the relief of Benjamin Desobry;" and, also, the bill, entitled "An act for the relief of Peter Cadwell;" were

severally read the second time, and respectively referred to the Committee on Finance.

Mr. HOLMES, of Maine, from the Committee on Finance, to which was referred the three last mentioned bills, reported the same, respectively, without amendment.

The bill, entitled "An act concerning invalid pensioners," was read the second time, and referred to the Committee on Pensions.

Mr. NOBLE, from the said committee, reported the same without amendment.

The bill, entitled "An act for the relief of James Brisbane and Jonah Lewis;" the bill, entitled "An act for the relief of William Gwynn;" the bill, entitled "An act for the relief of Stephen Howard, jr.;" and, also, "A resolution authorizing the delivery of rifles promised to Captain Aikins' volunteers at the siege of Plattsburg;" were severally read the second time, and respectively referred to the Committee on Military Affairs.

Mr. WILLIAMS, of Tennessee, from the said committee, reported the same, respectively, without amendment.

The bill entitled "An act for the relief of William R. Maddox;" the bill, entitled "An act for the relief of Samuel Walker, Joseph L. Dutton, John Martin, Samuel Peterson, and Hannah Peterson;" the bill, entitled "An act for the relief of Charles Campbell;" and, also, the bill entitled "An act for the relief of James Miller, John C. Elliott, Noah Hampton, James Erwin, and Jonathan Hampton;" were severally read the second time, and respectively referred to the Committee on Claims.

Mr. RUGGLES, from the said committee, reported the same, respectively, without amendment.

The bill entitled "An act for the relief of James Barron;" and, also, the bill entitled "An act for the relief of Loudon Case;" were severally read the second time, and respectively referred to the Committee of Claims.

Mr. RUGGLES, from said committee, reported the same, respectively, without amendment.

The bill entitled "An act for the relief of Benjamin Stephenson," was read the second time, and referred to the Committee on Public Lands.

Mr. THOMAS, from said committee, reported the same without amendment.

The bill entitled "An act authorizing the payment of certain certificates;" and, also, the bill entitled "An act for the relief of Joseph Bainbridge;" were severally read the second time, and respectively referred to the Committee on Finance.

Mr. HOLMES, of Maine, from said committee, reported the same, respectively, without amendment.

The bill entitled "An act confirming claims to lots in the town of Mobile, and to land in the former province of West Florida, which claims have been reported favorably on by the commissioners appointed by the United States," was read the second time, and referred to the Committee on Public Lands.

The bill entitled "An act for the relief of James Green;" the bill, entitled "An act authorizing the

issuing of letters patent to Joshua Garsed;" the bill, entitled "An act to authorize the issuing of letters patent to Richard Holden;" and, also, the bill entitled "An act to authorize the Secretary of State to issue letters patent to Frederick S. Warburg;" were severally read the second time, and respectively referred to the Committee on the Judiciary.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of James Pierce;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Alexander Roddy;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Trapmaun Jahucke & Co.," and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Sally Vance;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of the legal representatives of John Girault;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Susan Berzat, widow; and the legal representatives of Gabriel Berzat, deceased;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of the legal representatives of Marie Therese;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Nathan Branson;" and no amendment being made thereto, it was reported to the Senate; and on the question, "Shall this bill be read a third time?" it was determined in the negative. So it was rejected.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William Bartlett and John Stearns, owners of the schooner Angler; and Nathaniel Carver, owner of the schooner Harmony, and others." And on motion by Mr. HOLMES, of Maine, the further consideration thereof was indefinitely postponed.

The bill entitled "An act to extend the charter of the Mechanics' Bank of Alexandria, in the Dis-

MAY, 1822.

Proceedings.

SENATE.

trict of Columbia," was read a third time; and, on motion by Mr. EATON, it was laid on the table.

The bill entitled "An act fixing the compensation of the Commissioner of Public Buildings," was read a third time and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John M. Moody and Samuel Moody;" and on motion by Mr. HOLMES, of Maine, the further consideration thereof was indefinitely postponed.

Mr. LANMAN, from the Committee on the District of Columbia, to which was referred the bill, entitled "An act to repeal part of an act passed by the State of Maryland, in the year 1784, and now in force in Georgetown, in the District of Columbia, entitled "An act for an addition to Georgetown, in Montgomery county;" and also the bill, entitled "An act to incorporate the inhabitants of Georgetown, and to repeal all acts heretofore passed for that purpose;" reported the same respectively without amendment.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act explanatory of the act for the relief of James Leander Cathcart, passed May 15, 1820," with an amendment, in which they request the concurrence of the Senate.

Mr. SMITH, from the Committee on the Judiciary, to which was referred the bill, entitled "An act to provide for the prompt settlement of accounts therein mentioned, and for the punishment of the crime of perjury in certain cases," reported the same without amendment.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Isaac Collyer;" and on motion by Mr. HOLMES, of Maine, the further consideration thereof was indefinitely postponed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Edmund Kinsey and William Smiley;" and no amendment having been made thereto, it was reported to the Senate; and on the question, "Shall this bill be read a third time?" it was determined in the negative. So the bill was rejected.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Post and Farley Fuller;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

I transmit to Congress translations of two letters from Don Joaquin d'Anduaga to the Secretary of State, which have been received at the Department of State since my last Message communicating copies of his correspondence with this Government.

JAMES MONROE.

WASHINGTON, May 6, 1822.

The Message and documents were read.

Mr. BENTON submitted the following motion for consideration:

Resolved, That the President of the United States

be requested to communicate to the Senate, at the commencement of the next session of Congress, any information which may be in the possession of the Government, derived from special agents or otherwise, showing the number, value, and position, of the copper mines on the south shore of Lake Superior, the names of the Indian tribes who claim them, the practicability of extinguishing their title, and the probable advantage which may result to the Republic from the acquisition and working of these mines.

On motion, by Mr. SMITH, the Committee on the Judiciary, to which was referred the resolution of the State of Pennsylvania, relative to the annexation of the counties therein mentioned to the Western District; and, also, the memorial of the Pennsylvania Society for promoting the abolition of slavery; were discharged from the further consideration thereof respectively.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of sundry citizens of Baltimore;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act requiring Surveyors General to give bond and security for the faithful disbursement of public money, and to limit their term of office;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

Mr. STOKES, from the Committee on the Post Office and Post Roads, to which was referred the bill, entitled "An act to establish certain roads, and to discontinue others;" reported the same with amendments, which were read, and the bill, together with said amendments, were considered as in Committee of the Whole, and the amendments having been agreed to, the bill was reported to the Senate, amended accordingly; and being concurred in, the amendments were ordered to be engrossed, and the bill read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of the heirs of Edward McCarty, deceased;" and no amendment having been made thereto, it was reported to the Senate; and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Anthony Kennedy;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Crute;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of the legal representatives of John Guthry, deceased;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An

SENATE.

Military Appropriations.

MAY, 1822.

act for the relief of the representatives of John B. Dash;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the location of certain school lands in the State of Indiana;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

MILITARY APPROPRIATIONS.

The bill making appropriations for the military service was reported by the Committee on Finance, with some amendments, the only material one of which was a proviso that the appropriation for continuing the fortification on the Rip Raps (Fort Calhoun) shall not be regarded as confirming the contract with Elijah Mix. This amendment was agreed to by the Senate without a division.

Mr. THOMAS offered an additional section proposing to insert in the bill an appropriation of \$9,000 for repairing the Cumberland road.

This amendment was opposed by Mr. HOLMES, of Maine, Mr. LOWRIE, and Mr. KING, of New York, and was advocated by Mr. THOMAS and Mr. TALBOT, and was adopted—ayes 20, noes 13, as follows:

YEAS—Messrs. Barton, Benton, Brown of Louisiana, Brown of Ohio, Dickerson, Edwards, Holmes of Maine, Holmes of Mississippi, Johnson of Louisiana, Parrott, Rodney, Ruggles, Stokes, Talbot, Taylor, Thomas, Van Buren, Ware, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Chandler, Eaton, Findlay, Gaillard, King of Alabama, King of New York, Lanman, Lowrie, Macon, Morrill, Pleasants, Seymour, and Walker.

The bill having been amended, it was reported to the Senate accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill be read a third time as amended. The bill was then read a third time by unanimous consent, and passed.

The Senate adjourned to six o'clock in the evening.

Six o'clock in the Evening.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act authorizing the payment of a sum of money to Thomas Shields," with an amendment; in which they request the concurrence of the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with a resolution of the Senate, of the 26th of April, requesting the President of the United States "to communicate to the Senate the report of the Attorney General, relative to any persons (citizens of the United States) who have been charged with, or suspected of, introducing any slaves into the United States, contrary to existing laws," I transmit herewith two reports from the Attorney General.

JAMES MONROE.

WASHINGTON, May 6, 1822.

The Message and accompanying reports were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of James Miller, John C. Elliot, Noah Hampton, James Erwin, and Jonathan Hampton;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of David Cummings;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William Henderson;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William Dooley;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Pellet;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

Mr. PARROTT submitted the following motion for consideration:

Resolved, That the President of the United States be requested to cause to be laid before the Senate, at the commencement of the next session of Congress, the amount of all sums of money collected under the authority of any law or laws of the State of Georgia, (to which the assent of Congress may have been given,) imposing a tonnage duty on ships or vessels in the ports of Savannah and St. Mary's, and the manner in which such sums of money have been expended.

Mr. THOMAS, from the Committee on Public Lands, to which was referred the bill, entitled "An act vesting in the Commissioners of the counties of Wood and Sandusky the right to certain lots in the towns of Perrysburgh and Croghanville, in the State of Ohio, for county purposes;" and, also, the bill, entitled "An act for the relief of Samuel Ewings;" reported the same respectively without amendment.

A message from the House of Representatives informed the Senate that the House have passed the bill which originated in the Senate, entitled "An act to authorize the building of lighthouses therein mentioned, and for other purposes," with amendments, in which they request the concurrence of the Senate. They have also passed the bill, entitled "An act further to establish the compensation of officers of the customs, and to alter certain collection districts, and for other purposes," with amendments, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendments to the last mentioned bill; and they were ordered to lie on the table.

The Senate resumed, as in Committee of the

MAY, 1822.

Proceedings.

SENATE.

Whole, the consideration of the bill, entitled "An act for the relief of Benjamin Desobry;" and it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Peter Cadwell and James Britten;" and it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning invalid pensioners;" and it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Mattison;" and it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the release of Amos Muzzy and Benjamin White from imprisonment;" and it was laid on the table.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution authorizing the delivery of rifles promised to Captain Aikins' volunteers at the siege of Plattsburg;" and, on motion, the further consideration thereof was indefinitely postponed.

Ordered, That the Secretary notify the House of Representatives accordingly.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William Thompson;" and, on motion, the further consideration thereof was postponed indefinitely.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Stephen Howard, jr.;" and, on motion, the further consideration thereof was indefinitely postponed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Henry Lee;" and, on motion, the further consideration thereof was indefinitely postponed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Samuel Walker, Joseph L. Dutton, John Martin, Samuel Peterson, and Hannah Peterson;" and, on motion, the further consideration thereof was indefinitely postponed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William N. Earle;" and, on motion, the further consideration thereof was indefinitely postponed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Charles A. Swearingen;" and, on motion, the further consideration thereof was indefinitely postponed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Byers;" and, on motion, the further consideration thereof was indefinitely postponed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An

act for the relief of John Pellet;" and no amendment having been made thereto, it was reported to the Senate; and passed to a third reading.

Mr. THOMAS, from the Committee on Public Lands, to which was referred the bill, entitled "An act confirming claims to lots in the town of Mobile, and to land in the former province of West Florida, which claims have been reported favorably on by the Commissioners appointed by the United States," reported the same without amendment; and it was considered as in Committee of the Whole; and having been amended, it was reported to the Senate; and the amendment being concurred in, it was ordered to be engrossed, and the bill read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Solomon Prevost;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of James Brisbane, and Josiah Lewis;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act further to amend the several acts relative to the Treasury, War, and Navy Departments;" and the same having been amended, it was reported to the Senate accordingly; and, the amendments being concurred in, they were ordered to be engrossed, and the bill read a third time as amended?

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William Gwynn;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William R. Maddox;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Charles Campbell;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading.

TUESDAY, May 7.

Mr. DICKERSON, from the Committee on Commerce and Manufactures, to which was referred an act of the Legislature of the State of North Carolina, entitled "An act to incorporate a company, entitled the Roanoke Inlet Company, and for other purposes," made a report, which was read, considered, and agreed to; and, in concurrence therewith, resolved that the Committee on Commerce and Manufactures be discharged from the further consideration of the said act.

Mr. SMITH, from the Committee on the Judiciary, to which was referred the bill, entitled "An act for the relief of James Green;" the bill, entitled "An act authorizing the issuing of letters patent to Joshua Garsed;" the bill, entitled "An act to authorize the issuing of letters patent to Richard Holden;" and also the bill, entitled "An act to authorize the Secretary of State to issue letters patent to Frederick S. Warburg;" reported the same, respectively, without amendment.

The Senate proceeded to consider the motion of the 6th instant, for information respecting the copper mines on the south shore of Lake Superior, and agreed thereto.

The Senate proceeded to consider the motion of the 6th instant, for information respecting the money collected under the authority of the laws of the State of Georgia, (to which the assent of Congress may have been given,) imposing a tonnage duty on ships or vessels in the ports of Savannah and St. Mary's, and agreed thereto.

The Senate resumed the consideration of the amendments of the House of Representatives to the bill, entitled "An act further to establish the compensation of officers of the customs, and to alter certain collection districts, and for other purposes," and concurred therein.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the payment of certain certificates;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading. It was read a third time, by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Loudon Case;" and, no amendment having been made thereto, it was reported to the Senate, and passed to a third reading; and, on the question, "Shall this bill be now read a third time?" it was objected to as against the rule. So the bill was rejected.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to authorize the building of light-houses therein mentioned, and for other purposes," and concurred therein.

The Senate resumed the third reading of the bill, entitled "An act to extend the charter of the Mechanics' Bank of Alexandria, in the District of Columbia;" and, on motion by Mr. VAN DYKE, the further consideration was indefinitely postponed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to repeal part of an act passed by the State of Maryland, in the year 1784, and now in force in Georgetown, in the District of Columbia, entitled 'An act for an addition to Georgetown, in Montgomery county;'" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading; and on the question "Shall this bill be read a third time?" it was objected to as against the rule. So the bill was rejected.

The Senate resumed, as in Committee of the

Whole, the consideration of the bill, entitled "An act to provide for the prompt settlement of accounts therein mentioned, and for the punishment of the crime of perjury in certain cases;" and, on motion, the further consideration thereof was indefinitely postponed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate the inhabitants of Georgetown, and to repeal all acts heretofore passed for that purpose;" and, on motion, the further consideration thereof was indefinitely postponed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Benjamin Desobry;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading; and on the question, "Shall this bill be now read a third time?" it was objected to as against the rule. So the bill was rejected.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Joshua Bennett;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading. On the question, "Shall this bill be now read a third time?" it was objected to as against the rule. So the bill was rejected.

A message from the House of Representatives informed the Senate that the House disagree to the amendments of the Senate to the bill, entitled "An act making further appropriations for the military service of the United States for the year 1822, and for other purposes."

The Senate proceeded to consider their amendments to the bill last mentioned, disagreed to by the House of Representatives, and receded therefrom.

On motion, by Mr. CHANDLER, it was agreed to reconsider the vote of the Senate, on postponing indefinitely the bill, entitled "An act for the relief of Henry Lee;" and the bill was again considered as in Committee of the Whole; and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading; and it was read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Joseph Bainbridge;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading. It was read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate the inhabitants of Georgetown, and to repeal all acts heretofore passed for that purpose;" and, on motion by Mr. FINDLAY, the further consideration thereof was indefinitely postponed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Benjamin Stephenson;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third read-

MAY, 1822.

Proceedings.

SENATE.

ing. The bill was read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Peter Cadwell and James Britten;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading. It was read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of James Green;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading. It was read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill entitled "An act authorizing the issuing of letters patent to Joshua Garsed;" and no amendment having been made thereto, it was reported to the Senate and passed to a third reading. It was read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the issuing of letters patent to Richard Holden;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading. It was read a third time, by unanimous consent, and passed.

The Senate resumed as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the Secretary of State to issue letters patent to Frederick S. Warburg;" and no amendment having been made thereto, it was reported to the Senate, and passed to the third reading. The bill was then passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill entitled "An act vesting in the commissioners of the counties of Wood and Sandusky the right to certain lots in the towns of Perrysburgh and Croghansville, in the State of Ohio, for county purposes;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading. It was read a third time by unanimous consent, and passed.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act to provide for the collection of duties on imports and tonnage in Florida, and for other purposes," with amendments, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to the bill last mentioned, and concurred therein.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of James Barron;" and no amendment having been made thereto, it was reported to the House, and passed to a third reading. It was read a third time, by unanimous consent and passed.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act explanatory of the act for the re-

lief of James Leander Cathcart, passed May 15, 1820," and concurred therein.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act authorizing the payment of a sum of money to Thomas Shields;" and concurred therein.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Samuel Ewing;" and no amendment having been made thereto, it was reported to the Senate, and passed to a third reading. It was read a third time, by unanimous consent, and passed.

The bill, entitled "An act to establish certain roads, and to discontinue others," was read a third time, as amended, and passed.

The bill, entitled "An act confirming claims to lots in the town of Mobile, and to land in the former province of West Florida, which claims have been reported favorably on by the commissioners appointed by the United States," was read a third time, as amended, and passed.

The bill, entitled "An act for the relief of Joshua Cannon, Reuben Hickman, and Fielding Hickman," was read a third time, as amended, and passed.

The bill, entitled "An act further to amend the several acts relative to the Treasury, War, and Navy Departments," was read a third time, as amended, and passed.

The bill, entitled "An act for the relief of the representatives of John B. Dash," was read a third time, and passed.

The bill, entitled "An act for the relief of Alexander Roddy," was read a third time, and passed.

The bill, entitled "An act for the relief of Anthony Kennedy," was read a third time, and passed.

The bill requiring surveyors general to give bond and security for the faithful disbursement of public money, and to limit their term of office, was read a third time, and passed.

The bill, entitled "An act for the relief of the heirs of Edward McCarty, deceased," was read a third time, and passed.

The bill, entitled "An act for the relief of David Cummings," was read a third time, and passed.

The bill, entitled "An act for the relief of the heirs of Joseph Girault," was read a third time, and passed.

The bill, entitled "An act for the relief of William Henderson," was read a third time, and passed.

The bill, entitled "An act for the relief of Solomon Prevost," was read a third time, and passed.

The bill, entitled "An act for the relief of the legal representatives of John Guthry, deceased," was read a third time, and passed.

The bill, entitled "An act for the relief of James Pierce," was read a third time, and passed.

The bill entitled "An act for the relief of John Pellet," was read a third time, and passed.

The bill entitled "An act for the relief of the legal representative of Maria Theresa," was read a third time, and passed.

The bill entitled "An act for the relief of John Crute," was read a third time, and passed.

SENATE.

Proceedings.

MAY, 1822.

The bill entitled "An act for the relief of William Dooly," was read a third time, and passed.

The bill entitled "An act for the relief of James Brisbane and Josiah Lewis," was read a third time, and passed.

The bill entitled "An act for the relief of Susan Berzat, widow, and the legal representatives of Gabriel Berzat, deceased," was read a third time, and passed.

The bill entitled "An act for the relief of Charles Campbell," was read a third time, and passed.

The bill entitled "An act for the relief of Traupmann Jahucke & Co.," was read a third time, and passed.

The bill entitled "An act for the relief of William Gwynn," was read a third time, and passed.

The bill entitled "An act for the relief of John Post and Farley Fuller," was read a third time, and passed.

The bill entitled "An act for the relief of James Miller, John C. Elliott, Noah Hampton, James Erwin, and Jonathan Hampton," was read a third time, and passed.

The bill entitled "An act for the relief of Sally Vance," was read a third time, and passed.

The bill entitled "An act authorizing the location of certain school lands in the State of Indiana," was read a third time, and passed.

The bill entitled "An act to provide for annuities to the Ottawas, Potawatamies, Kickapoos, Choctaws, Kaskaskias, to Mushalatubbe, and to carry into effect the treaty of Saganaw," was read a third time, and passed.

The bill entitled "An act for the relief of William R. Maddox," was read a third time, and passed.

The bill entitled "An act explanatory of an act for the relief of sundry citizens of Baltimore," was read a third time, and passed.

The bill entitled "An act authorizing the payment of certain certificates," was read a third time, and passed.

The Senate adjourned to six o'clock in the evening.

Six o'clock in the Evening.

The following Message was received from the PRESIDENT OF THE UNITED STATES :

To the Senate of the United States :

In compliance with the resolution of the Senate of the 25th of April, requesting certain information concerning lead mines on lands of the United States, I herewith transmit a report from the Secretary of War.

JAMES MONROE.

WASHINGTON, May 7, 1822.

The Message and report were read.

A message from the House of Representatives informed the Senate that the House concur in all the amendments of the Senate to the bill, entitled "An act to establish certain roads, and to discontinue others," except to the amendment striking out the following words from the second section : "From Fayetteville, in North Carolina, leaving the road to Camden at or near Laurel Hill, by Cheraw to Camden:" to which they disagree.

The Senate proceeded to consider their amendment to the bill, entitled "An act to establish certain roads, and to discontinue others," disagreed to by the House of Representatives ; and receded therefrom.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act for ascertaining claims and titles to land within the Territory of Florida," with amendments, in which they request the concurrence of the Senate. They have also passed the bill which originated in the Senate, entitled "An act supplementary to the several acts for adjusting the claims to land and establishing land offices in the districts east of the island of New Orleans," with amendments, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to the bill last mentioned, and concurred therein.

The Senate proceeded to consider the amendments of the House of Representatives to the bill for ascertaining claims and titles to land within the Territory of Florida, and concurred therein.

On motion, by Mr. KING, of New York, the general account of the Treasurer, as also the War and Navy accounts, together with the reports thereon, communicated to the Senate on the 22d of February, were ordered to be printed for the use of Congress.

WEDNESDAY, May 8.

A message from the House of Representatives informed the Senate that the President of the United States having returned to the House of Representatives on the 4th instant, the bill, entitled "An act for the preservation and repair of the Cumberland road," with his objections to the same; the said House proceeded to the reconsideration thereof; and resolved, that the said bill do not pass. The House of Representatives have passed a resolution for the appointment of a joint committee to wait on the President of the United States, and inform him that unless he may have any further communication to make to the two Houses of Congress, they are ready to adjourn ; in which resolution they request the concurrence of the Senate.

Mr. KING, from the Committee on Foreign Relations, to whom was referred the Message of the President of the United States of May 1st, with the correspondence between the Secretary of State and the Chargé d'Affaires of Sweden, made a report, which was read. Whereupon, the committee were discharged from the further consideration of the Message and correspondence referred to them.

Mr. KING, from the Committee on Foreign Relations, to whom was referred the Message of the President, of the 3d instant, together with the letters of Messrs. Bagot and Canning, concerning the duties on English hammered iron; made a report which was read. Whereupon, the committee were discharged from the further consideration of the Message and accompanying docu-

MAY, 1822.

Lease of the Lead Mines.

SENATE.

ments, and the same was referred to the next session of the Senate.

LEAD MINE LEASES.

Mr. BENTON, of Missouri, asked leave to submit a resolution, founded upon the Message of the President received last night, covering a report from the Ordnance branch of the War Department, on the subject of lead mine leases in the valley of the Mississippi. He would explain the grounds upon which the resolution would be predicated. The Ordnance report showed that a set of rules had been adopted for leases of lead mines, in virtue of a supposed power in the act of Congress, of March 3d, 1807. Mr. B. was of opinion that the act did not in fact, nor could not in law, impart such power. The lead mines were national property, and, as such, it belonged to Congress alone to make rules for their disposition. He referred to the Constitution, and contended that Congress could not, if it would, devolve upon others the power which that instrument had given to the representatives of the people alone, to dispose of the national property. The report also showed that two leases (provisionally) for 160 acres each, upon the application of the honorable RICHARD M. JOHNSON, had been made this Winter to Messrs. J. Johnson and others, of Kentucky, to be taken where the lessees please, between Lake Michigan and the Mississippi river, to endure for three years, with the right of renewal, free of rent for two years, and paying one-tenth of the ore raised on the third, and a stipulation about paying for improvements. The lease purported to be conditional, but seemed to be in a train of execution. The lessees were authorized forthwith to make their selection and go to work. An officer of artillery (Lieutenant Burdine) had been ordered to meet the lessees at the Great Crossings, in Kentucky, on the first of March, and proceed with them to select the mine. A small detachment of regular troops were to give them support and countenance. Three Indian agents have been directed to hold themselves in readiness to proceed with the lessees, to explain to the Indians the views of the Government in making the leases, and securing the lessees in the uninterrupted prosecution of the work. Mr. B. took two objections to these leases:

1. Disadvantageous to the Republic.
2. Illegal.

First. Disadvantageous, he said, because the mines intended to be covered by the lease were worth an immense sum, and were parted with for a song. The leases would be located on the left bank of the Mississippi, between Ouisconsin and Rock river. Mr. B. showed a table of the Indian trade at St. Louis, in 1816, which exhibited the quantity of 180,000 pounds weight of lead sold by the Indians from these mines, to the fur traders. He referred to Mr. Brackenridge's Views of Louisiana, page 65, to show that, in 1811, the same item amounted to 500,000 pounds weight. At five cents a pound, the average price at St. Louis, the first of these quantities would command \$9,000, and the second \$25,000. Mr. B. said, that the richness of these mines was known to every body

at St. Louis, and if there let out at auction, to the highest bidder, upon due notice, would have commanded an immense sum.

Second. These leases were illegal, because the act of 1807, upon which the lessor relied, was special, and would exclude the present lessees. Mr. B. read the act, and argued that it did not extend to the whole United States, but only to territory ceded by foreign Powers, (Louisiana,) or by some State. The mines in question were on the Virginia cession, and would not exclude the lessees upon that limitation. But there was another, which applied to the persons capable of taking the lease, which would exclude them. The lessor relied upon the proviso to the 2d section, volume 4, Laws U. S., page 119.) That proviso has relation back to the persons described in the preceding part; and they must be, 1st, persons settled upon a half section of land at the time of the cession; 2d, settled there at the time of the passing of the act, (3d March, 1807;) 3d, and who should apply for the lease before the 1st of January, 1808. To "such applicant," when the half section includes a lead mine, the President may "grant permission to work the same," and cause "such mine" to be leased for a term not exceeding three years.

Mr. B. said, the present lessees were excluded upon all three of these limitations. They were Kentuckians, who never did reside upon the half section and did not apply for their lease till the Winter of 1821-2. Mr. B. said that Congress had twice shown that they understood the act as he did—in 1816, when they re-enacted this section for one year, and took in the persons then settled, and who should apply before the 1st day of September, 1817; and in 1817, when the same section was continued open for settlers till the 4th day of March, 1818. He said the United States Supreme Court, in the late Territory of Missouri, had decided the same way. He, Mr. B., was counsel for Wilson, and others, sued at the instance of the United States for about \$25,000 of rent for leases under the act of 1807. He demurred for want of power in the lessor, and the plaintiff was amerced, *pro falso clamore suo*. Many leases had been made in Missouri. He never heard of but one who paid, Parthenai, a Frenchman, who paid \$2,300 on the first lease, as Mr. B. had been informed.

Mr. B. said, there was another consideration connected with this lease—the illegality and disadvantage of it out of the question—the Indians would appear as a party, under circumstances of powerful appeal to the justice of the American Government. They claim these mines. They are weak—we are strong. They have the possession—we have the words of a treaty. Mr. B. would state the case as fairly as he could for both parties. In 1804 the Sacs and Foxes ceded the country between the Ouisconsin and Rock river (including the mines in question) to the United States; the Chippewas, Ottawas, and Potawatamies, disputed their title. In 1816 a treaty was held with the three latter tribes, and the dispute with the United States was compromised by a division of the disputed tract: a line was agreed upon to run West from the South end of Lake Michigan to the left

bank of the Mississippi; the United States taking what was to the South, and the three tribes taking that which was to the North, with the exception of one reserve of three leagues square, to include the fort at Prairie du Chien, and with the reserve of "such other tracts at or near the Ouisconsin and Mississippi, as the President may think proper to reserve; such tracts not exceeding five leagues square." (6 vol. Laws United States, page 310.) The question, as it concerns the Indians, said Mr. B., arises out of the last reserve. The tracts are not designated; it is left to the President. The Indians deny that they intended that the mines should be taken, and have often threatened to kill any white people who should attempt to work them. It is clear that an opposition is now apprehended, for the present lessees are accompanied by a triumvirate of pacificators to quiet the Indians, and a military demonstration to overawe them. Mr. B. thought that the lessees ought to be arrested, if not for the enormous injury done the Republic in the lease, at least for its illegality and severity towards the Indians.

Mr. B. apologized for troubling the Senate at the last moment of the session. He could not do it sooner. The report was only received the night before, and he could not resist a sense of duty which compelled him to lay a resolution on the table. Mr. B. then submitted the following resolution, which was read, and ordered to lie on the table:

Resolved, That the Committee on the Judiciary be instructed to inquire into the legality of the Lead Mine leases made with James Johnson, and others, of Kentucky, communicated to the Senate in the President's Message of May 7th.

Mr. EDWARDS, of Illinois, spoke as follows:

Mr. President: Since the honorable gentleman from Missouri (Mr. BENTON) has thought proper, at this late period of the session, to bring this subject before the Senate, and to submit a resolution, which it is now impossible to act upon, I must be permitted to say that, if the impatience of gentlemen to adjourn did not preclude all hope of commanding attention to a dry, legal investigation, I think, I could most satisfactorily demonstrate that the construction which the gentleman has given to the law of 1807, and from which he infers, the illegality of the leases referred to in his resolution, is most palpably erroneous.

That his is opposed to the contemporaneous and practical construction which has been given to the law, by all those whose duty it has been to execute it, is plainly to be inferred, even from the fact stated by himself, "that many leases under it had been made in Missouri."

The same construction, however, has uniformly governed in a variety of other cases of the greatest notoriety. That the nation has sanctioned it, is evident, not only from its acquiescence, for the last fifteen years, in all those cases, but from positive acts of legislation in relation to some of them, and particularly to that of the Wabash Saline, in Illinois.

The clause of the law to which the gentleman refers, embraces "salt springs" as well as "lead

mines," and the authority to lease the one, with every limitation prescribed, equally applies to the other. The duty of executing this law, until very recently, appertained to the Treasury Department, the records of which will prove that all the distinguished gentlemen who have presided over that Department, and every President, since the 3d March, 1807, have sanctioned, or exercised the power, now, for the first time, discovered to be an usurpation.

The first lease of the Wabash Saline was executed by Governor Harrison, under the direction of Mr. Gallatin, to Kentuckians. All the subsequent leases of it were executed by myself, under the direction of the same gentleman, and his successors in office. By his directions, also, I leased a large body of land, including a lead mine, in Illinois, to William Ficklen, of Kentucky. In 1816 or '17, leases were made of a salt spring on Big Muddy river, in Illinois, and of the very mines referred to by the resolution submitted by the honorable gentleman, which were vastly more extensive, and less guarded than those now objected to, and I presume all those leases may be found in the Treasury Department. Other similar instances might be referred to, but, sir, it would be but a useless waste of time to multiply the evidences of the universally received construction and practical exposition that has been uniformly given to this law.

But, Mr. President, said Mr. E., were this a case of the first impression, there is nothing, either in the letter, or intention of the law, to warrant the gentleman's construction. The law is entitled "An act to prevent settlements being made on land ceded to the United States, until authorized by law." Its provisions accord well with its title, some of them containing severe prohibitions against unlawful, and others prescribing the means of obtaining authorized settlements. In the latter it was declared that all persons settled upon public land, at the time of the passage of the act, who should, at any time prior to the first of January following, apply to the Register of the Land Office, &c., for that purpose, should obtain permission to occupy their settlements, as tenants at the will of the Government, upon certain specified conditions, with the exception, however, of all tracts of land, including lead mines, or salt springs. To tracts of this description the power of the Register did not extend. Nor was it intended to secure to the settlers the benefits of any settlements thereon. These tracts were expressly reserved for the disposition of the President of the United States, by a proviso in the following words, viz: "That in all cases where the tract of land applied for includes either a lead mine or salt spring, no permission to work the same shall be granted, without the approbation of the President of the United States, who is hereby authorized to cause such mines or springs to be leased for a term not exceeding three years, and on such conditions as he shall think proper."

The gentleman from Missouri says, "this proviso has relation back to the persons described in the preceding part." It has, indeed, such "re-

Executive Proceedings.

lation back" to those persons, so far as to negative and exclude the exclusive claim, on their part, for which he contends, and to limit the power of the register. But it has also a relation forward, as a distinct substantive grant of power to the President, to lease all such mines and salt springs," without any of the limitations imposed upon the register, as to persons, "for the term of three years, on such conditions as he shall think proper."

The provisions in relation to the permissions to be granted to the settlers, were to expire, by their own limitation, within a short time. Those settlers could claim no benefit, under the law, after the first day of the next succeeding January. The power to lease the lead mines and salt springs for the term of three years, with the latitude of discretion allowed to the President, contemplated regulations of a permanent character, to be executed as well after, as before the first day of January, and must be considered wholly independent of any claims which the intruders upon public land—the violators of a law of the United States, could have upon the Government.

But, though the gentleman admits that those mines are "national property," and complains most bitterly of the immense sacrifice of the public interest, in the two leases of one hundred and sixty acres each, that are the subject of his denunciation; yet, he contends that the President's power of leasing is confined exclusively to the squatters that happened to be on mineral lands. How, let me ask, would the public interest be better consulted by enforcing such an unreasonable limitation? There is none such annexed to the power granted to the President, and no implication can warrant it; for there is nothing to induce us to believe that those squatters were such favorites that the legislature intended to secure to them the exclusive privilege of leasing, and that too, without the possibility of competition, the valuable mines which the gentleman has described, and to which every other citizen of the United States had an equal claim.

The gentleman, however, has satisfied himself that Congress has given a legislative construction to the law conformably to his own; for says he, "Congress had twice shown that they understood 'the act as he did—in 1816, when they re-enacted 'this section for one year, and took in the persons 'then settled, who should apply before the 1st day 'of September, 1817; and in 1817, when the same 'section was continued open to the settlers till the '4th day of March, 1818.'" But here, sir, said Mr. E. the gentleman labors under a great mistake. In neither of these laws is the section referred to re-enacted. They provide temporarily for settlers only, and extend to them all the rights, privileges, or benefits, that had been or were intended to be granted to others in the like situation. The proviso in these laws is in the following words, viz: "That in all cases where the tract of land applied 'for includes either a lead mine or salt spring, no 'permission to work the same shall be granted 'without the approbation of the President of the 'United States." But that part of the section, in the law of 1807, which confers upon the Presi-

dent the power of leasing lead mines and salt springs, is not re-enacted, doubtless, because it was not intended to be temporary, or to apply exclusively to the settlers, as the gentleman supposes. [Here, Mr. EDWARDS, at the suggestion of Mr. KING, of New York, gave way for a motion to lay the resolution on the table.]

ADJOURNMENT.

The Senate proceeded to the consideration of the resolution from the House of Representatives, for the appointment of a joint committee to wait on the President of the United States, and notify him that, unless he may have further communications to make to the two Houses of Congress, they are ready to adjourn, and concurred therein. And Mr. KING, of New York, and Mr. MACON, were appointed the committee on the part of the Senate.

Mr. KING, of New York, from the joint committee, reported that they had waited on the President of the United States, who informed them that he had no further communications to make to the two Houses of Congress.

A message was then received from the House of Representatives, notifying the Senate that the House, having finished the business before them, are about to adjourn.

The Secretary was then directed to inform the House that the Senate, having finished the business before them, are about to adjourn. Whereupon, the PRESIDENT adjourned the Senate without day.

EXECUTIVE PROCEEDINGS.

IN SENATE OF THE UNITED STATES,
April 30, 1822.

Ordered, That the injunction of secrecy be removed from the following proceedings and documents, and that they be printed.

MONDAY, January 22, 1822.

The following written Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I nominate the persons whose names are stated in the enclosed letter from the Secretary of War, for the appointments therein respectively proposed for them.

The changes in the Army, growing out of the act of the 2d of March, 1821, "To reduce and fix the Military Peace Establishment of the United States," are exhibited in the official register for the year 1822, herewith submitted for the information of the Senate.

Under the late organization of the artillery arm, with the exception of the colonel of the regiment of light artillery, there were no grades higher than lieutenant colonel recognised. Three of the four colonels of artillery provided for by the act of Congress of the 2d of March, 1821, were considered, therefore, as original vacancies, to be filled, as the good of the service might dictate, from the army corps.

The pay department being considered as a part of the Military Establishment, and within the meaning

Executive Proceedings.

of the above recited act constituting one of the corps of the army, he then paymaster general was appointed colonel of one of the regiments. A contrary construction, which would have limited the corps specified in the 12th section of the act to the line of the Army, would equally have excluded all the other branches of the staff, as well as that of the pay department, which was expressly comprehended among those to be reduced. Such a construction did not seem to be authorized by the act, since, by its general terms, it was inferred to have been intended to give a power of sufficient extent to make the reduction, by which so many were to be disbanded, operate with as little inconvenience as possible to the parties. Acting on these views, and on the recommendation of the board of general officers, who were called in, on account of their knowledge and experience, to aid the Executive in so delicate a service, I thought it proper to appoint Colonel Towson to one of the new regiments of artillery, it being a corps in which he had eminently distinguished himself, and acquired great knowledge and experience, in the late war.

In reconciling conflicting claims, provision for four officers of distinction could only be made, in grades inferior to those which they formerly held. Their names are submitted, with the nomination for the brevet rank of the grades from which they were severally reduced.

It is proper, also, to observe that, as it was found difficult, in executing the act, to retain each officer in the corps to which he belonged, the power of transferring officers from one corps to another was reserved in the general orders published in the register, till the 1st day of January last, in order that, upon vacancies occurring, those who had been put out of their proper corps might, as far as possible, be restored to it. Under this reservation, and in conformity to the power vested in the Executive by the 1st section of the 75th article of the general regulations of the Army, approved by Congress at the last session, on the resignation of Lieutenant Colonel Mitchell, of the corps of artillery, Lieutenant Colonel Lindsay, who had belonged to this corps before the late reduction, was transferred back to it, in the same grade. As an additional motive to the transfer, it had the effect of preventing Lieutenant Colonel Taylor and Major Woolley being reduced to lower grades than those which they held before the reduction, and Captain Cobb from being disbanded under the act. These circumstances were considered as constituting an extraordinary case, within the meaning of the section already referred to of the regulations of the Army. It is, however, submitted to the Senate whether this is a case requiring their confirmation—and, in case such should be their opinion, it is submitted to them for their Constitutional confirmation..

JAMES MONROE.

WASHINGTON, January 17, 1822.

WAR DEPARTMENT, Jan. 2, 1822.

SIR: I have the honor to lay before you a list of promotions and appointments, requiring the confirmation of the Senate.

I have the honor to be, sir, with perfect respect, your obedient servant,

J. C. CALHOUN.

To the PRESIDENT of the U. S.

Promotions and Appointments in the Army of the United States.

James Gadsden, late inspector general, to be adjutant general, August 13, 1821.

Samuel B. Archer, captain artillery, to be inspector general, November 10, 1821.

William Linnard, late deputy quartermaster general, to be quartermaster, November 12, 1813.

Henry Stanton, late deputy quartermaster general, to be quartermaster, May 13, 1820.

Daniel Parker, late adjutant and inspector general, to be paymaster general, June 1, 1821.

Thomas Wright, late paymaster 8th infantry, to be paymaster, June 22, 1815.

Asher Phillips, late paymaster 3d infantry, to be paymaster, August 26, 1815.

Alphonso Wetmore, late paymaster 6th infantry, to be paymaster, October 14, 1815.

Corps of Engineers.

Cadet Edward H. Courtenay, to be brevet second lieutenant, July 1, 1821.

First Regiment of Artillery

Second lieutenant Matthew A. Patrick, to be first lieutenant, August 11, 1820.

Third lieutenant Daniel D. Tompkins, of ordnance, to be second lieutenant, July 1, 1820.

Brevet second lieutenant Jonathan Prescott, to be second lieutenant, July 1, 1821.

Brevet second lieutenant Charles Dimmock, to be second lieutenant, July 1, 1821.

Cadet Washington Wheelwright, to be brevet second lieutenant, July 1, 1821.

Second Regiment of Artillery.

Nathan Towson, late captain light artillery, to be colonel, July 1, 1821.

First lieutenant Thomas C. Legate, to be captain, May 13, 1820.

Second lieutenant C. M. Eakin, to be first lieutenant, May 13, 1820.

Second lieutenant Samuel Cooper, to be first lieutenant, July 1, 1821.

Third lieutenant William C. De Hart, late ordnance, to be second lieutenant, July 1, 1820.

Third lieutenant William P. Buchanan, late ordnance, to be second lieutenant, July 1, 1820.

Cadet David Wallace, to be brevet second lieutenant, July 1, 1821.

Cadet James Grier, to be brevet second lieutenant, July 1, 1821.

Third Regiment of Artillery.

Second lieutenant S. S. Smith, to be first lieutenant, November 30, 1820.

Third lieutenant Francis N. Barbarin, ordnance, to be second lieutenant, July 1, 1820.

Third lieutenant Charles Thomas, ordnance, second lieutenant, June 1, 1821.

Cadet Robert W. Allston, brevet second lieutenant, July 1, 1821.

Cadet J. F. Scott, brevet second lieutenant, July 1, 1821.

Fourth Regiment of Artillery.

J. R. Fenwick, late lieutenant colonel light artillery, to be colonel, June 1, 1821.

Second lieutenant John M. Washington, first lieutenant, May 23, 1829.

Second lieutenant William Wright, first lieutenant, August 23, 1820.

Executive Proceedings.

Second lieutenant Harvey Brown, first lieutenant, August 23, 1821.

Third lieutenant William H. Bell, ordnance, second lieutenant, 1820.

Cadet Clark Burdine, second lieutenant, July 1, 1821.

Cadet W. W. Wells, second lieutenant, July 1, 1821.

Cadet J. C. Holland, second lieutenant, July 1, 1821.

Cadet Edward C. Ross, to be second lieutenant, July 1, 1821.

Cadet John B. Scott, brevet second lieutenant, July 1, 1821.

First Regiment of Infantry.

Cadet Jefferson Vail, to be second lieutenant, July 1, 1821.

Second Regiment of Infantry.

Second lieutenant E. K. Barnum, to be first lieutenant, December 31, 1821.

Cadet Alexander Morton, second lieutenant, July 1, 1821.

Third Regiment of Infantry.

Cadet Otis Wheeler, to be second lieutenant, July 1, 1821.

Cadet Henry Bainbridge, second lieutenant, July 1, 1821.

Fourth Regiment of Infantry.

First lieutenant Francis W. Brady, to be captain, December 31, 1820.

Second lieutenant Thomas Johnson, first lieutenant, December 31, 1820.

Fifth Regiment of Infantry.

First lieutenant J. Plymton, to be captain, January 1, 1822.

Second lieutenant C. Burbridge, first lieutenant, November 1, 1821.

Second lieutenant J. B. F. Russell, first lieutenant, January 1, 1822.

Cadet Seth M. Capron, second lieutenant, July 1, 1821.

Cadet Julius A. d'Laguel, second lieutenant, July 1, 1821.

Sixth Regiment of Infantry.

Second lieutenant W. D. McCray, to be first lieutenant, November 5, 1821.

Third lieutenant Joseph Buckley, ordnance, second lieutenant, June 1, 1821.

Cadet Joseph Pentland, second lieutenant, July 1, 1821.

Cadet W. W. Gaillard, second lieutenant, July 1, 1821.

Cadet Jason Rogers, second lieutenant, July 1, 1821.

Cadet D. M. Porter, second lieutenant, July 1, 1821.

Seventh Regiment of Infantry.

Major J. B. Many, to be lieutenant colonel, January 1, 1822.

Second lieutenant John B. Hobkirk, to be first lieutenant, October 31, 1820.

Third Lieutenant James Dawson, ordnance, to be second lieutenant, June 1, 1821.

Edward Purcell, late surgeon fifth infantry, to be surgeon, June 18, 1821.

John A. Brereton, D. C., to be assistant surgeon, July 1, 1821.

Henry Stevenson, late post surgeon, to be assistant surgeon, July 16, 1821.

Mordecai Hale, late post surgeon, to be assistant surgeon, October 27, 1821.

Richard S. Satterlee, ———.

Walter Jones, D. C., to be brigadier general of the militia of the District of Columbia, August 1, 1821.

Israel P. Thompson, D. C., to be captain 1st regiment, 2d brigade, militia of the District of Columbia, August 1, 1821.

George Brent, D. C., to be lieutenant 1st regiment, 2d brigade, militia of the District of Columbia, August 1, 1821.

Samuel M'Chain, to be ensign 1st regiment, 2d brigade, militia of the District of Columbia, August 1, 1821.

The following officers have been raised in the United States army:

Corps of Engineers.

Brevet Major General Alexander Macomb, late brigadier general, to be colonel, 6th of July, 1812, with the brevet rank of brigadier general, 24th January, 1814.

Sixth Regiment of Infantry.

Brigadier General Henry Atkinson, to be colonel, 15th April, 1814, with the brevet rank of brigadier general, 13th May, 1820.

Seventh Regiment of Infantry.

Major William Bradford, late of the rifle, to be captain, 6th July, 1812, with the brevet rank of major, 19th November, 1818.

First Regiment of Artillery.

Major James Daliba, late of the ordnance, to be captain, 5th August, 1813, with the brevet rank of major, 9th February, 1815.

The Message was read.

On motion, *Ordered*, That it be referred to the Committee on Military Affairs, to consider and report thereon.

WEDNESDAY, January 23.

On motion, by Mr. WILLIAMS of Tennessee, *Ordered*, That the Message nominating persons to promotions and appointments in the Army, be printed for the use of the Senate, under an injunction of secrecy.

MONDAY, February 25.

Mr. WILLIAMS of Tennessee, from the Committee on Military Affairs, to whom was referred the Message of the 21st January, nominating persons to promotions and appointments in the Army, reported on the nomination of Richard S. Satterlee; and, *Resolved*, That the Senate do advise and consent to the appointment, agreeably to the nomination.

FRIDAY, March 8.

On motion, by Mr. BENTON, *Resolved*, That the Committee on Military Affairs be instructed to make a report to the Senate, showing the number of the Colonels in the Army of the United States on the 2d of March, 1821, their names, dates of

Executive Proceedings.

commission, and corps. Also, showing the number of Colonels in service under the Peace Establishment of 1821, their names, the highest grade before held by them, the date of that commission, and the corps to which they belonged, if attached to any corps. Also, showing the number of Adjutant and Inspector Generals in service on the said 2d of March, their names, the highest lineal rank previously held by each in the United States Army, and the date of that commission. Also, showing the number of Adjutant and Inspector Generals in service under the Peace Establishment of 1821, their names, the highest lineal rank previously held by them, and the date of commission. Also, a list of all transfers and promotions made under or since the said act of March 2, showing the names, grades, dates of commissions, and corps to which each belonged at the time of the transfer or promotion, and the office to which transferred or promoted. Also, showing the highest lineal rank held by Colonel R. Butler in the Army of the United States, at any time before the said 2d of March, the time when, and his rank when he may have quit the line of the Army; and the grade and date of commission of Major William Bradford, at the date aforesaid.

WEDNESDAY, March 13.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the Message of the 21st January, nominating to promotions and appointments in the Army, made the following report; which was read:

That Colonel Towson, on the 2d day of March, 1821, was Paymaster General; that he held neither rank nor command in the Army; and, not belonging to any corps of the Army, the President had no power, under the law reducing and fixing the Military Peace Establishment, to arrange him to the command of one of the regiments retained in service by said act.

The committee further report, that Colonel Gadsden, on the 2d of March, 1821, was one of the two Inspector Generals of the Army, both of whom were retained in service by the act reducing the Army; that there were two Adjutant Generals in service, one of whom was retained in service; and the President was not authorized to dismiss both of them, and retain Colonel Gadsden as Adjutant General.

The committee further report, that Colonel Fenwick, on the 2d of March, 1821, was Lieutenant Colonel of the light artillery; that, by appointing him to the command of one of the regiments of artillery, it will disband, as supernumerary, a full Colonel, who, by the terms of the law of the 2d March, 1821, was entitled to be retained. The committee, therefore, recommend that the Senate do not advise and consent to the nomination of Colonel Fenwick.

The committee further report, that Generals Macomb and Atkinson, Majors Bradford and Dalliba, are nominated to grades below the rank they formerly held in the Army; that the principle of *razees* was recognised by the Senate on the reduction of the Army in 1815; and, under the authority of that precedent, the committee recommend that the last four mentioned nominations be confirmed.

Mr. WILLIAMS, from the same Committee, pur-

suant to a resolution of the 8th instant, reported the Army Register of May 17, 1821; which was read.

THURSDAY, March 14.

The Senate proceeded to consider the nomination of Nathan Towson to appointment in the Army, as contained in the message of the 21st January; and, after debate, the Senate adjourned.

FRIDAY, March 15.

The Senate resumed the consideration of the nomination of Nathan Towson; and, on motion, ordered, that it lie on the table.

SATURDAY, March 16.

The Senate resumed the consideration of the nomination of Nathan Towson; and, on the question, "Will the Senate advise and consent to this appointment?" it was determined as follows:

YEAS—Messrs. Barbour, Brown of Louisiana, Brown of Ohio, Eaton, Edwards, Findlay, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lanman, Mills, Otis, Parrott, Southard, Stokes, and Talbot—19.

NAYS—Messrs. Barton, Benton, Boardman, Chandler, D'Wolf, Dickerson, Elliott, Gaillard, Holmes of Maine, Lloyd, Lowrie, Macon, Morril, Palmer, Pleasants, Ruggles, Seymour, Smith, Taylor, Thomas, Van Dyke, Walker, Ware, Williams of Mississippi, and Williams of Tennessee—25.

So it was resolved, that the Senate do *not* advise and consent to the appointment of Nathan Towson to be Colonel of the second regiment of artillery.

MONDAY, March 18.

The Senate proceeded to consider the nomination of James Gadsden to be Adjutant General, contained in the message of the 21st January; and, after debate, the Senate adjourned.

THURSDAY, March 21.

The Senate resumed the consideration of the nomination of James Gadsden to be Adjutant General, contained in the Message of the 21st January; and, on the question, "Will the Senate advise and consent to this appointment?" it was determined as follows:

YEAS—Messrs. Barbour, Brown of Louisiana, Brown of Ohio, Eaton, Edwards, Elliott, Findlay, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lanman, Mills, Otis, Parrott, Southard, Stokes, and Williams of Mississippi—20.

NAYS—Messrs. Barton, Benton, Boardman, Chandler, D'Wolf, Dickerson, Gaillard, Holmes of Maine, Macon, Morril, Noble, Palmer, Pleasants, Seymour, Smith, Talbot, Taylor, Thomas, Van Buren, Van Dyke, Walker, Ware, and Williams of Tennessee—23.

So it was resolved, that the Senate do *not* advise

Executive Proceedings.

and consent to the appointment of James Gadsden to be Adjutant General.

The Senate proceeded to consider the nomination of Alexander Macomb, to be Colonel of the Corps of Engineers, contained in the last mentioned message; and, on motion, by Mr. SMITH, ordered, that the question, "Will the Senate advise and consent to this appointment?" be taken by yeas and nays.

On motion, ordered, that the nomination lie on the table.

FRIDAY, March 22.

The Senate resumed the consideration of the nominations to promotions and appointments in the Army, as contained in the message of the 21st January, and not before acted on.

On the question, "Will the Senate advise and consent to the appointment of Alexander Macomb to be Colonel of Engineers, with the brevet rank of Brigadier General?"

A division of the question was called for, and the vote was taken on the first member thereof, which was determined as follows:

YEAS—Messrs. Barbour, Boardman, Brown of Louisiana, Brown of Ohio, Dickerson, Eaton, Elliott, Findlay, Holmes of Mississippi, Johnson of Kentucky, King of Alabama, King of New York, Knight, Lanman, Macon, Mills, Morrill, Parrott, Pleasants, Southard, Stokes, Talbot, Van Buren, Van Dyke, Walker, and Williams of Tennessee—26.

NAYS—Messrs. Barton, Benton, Chandler, D'Wolf, Gaillard, Holmes of Maine, Noble, Palmer, Ruggles, Seymour, Smith, Taylor, Thomas, and Ware—14.

The vote was taken on the second member of the said question, as follows:

YEAS—Messrs. Barbour, Barton, Brown of Louisiana, Eaton, Edwards, Elliott, Findlay, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Lanman, Macon, Mills, Morrill, Otis, Parrott, Pleasants, Seymour, Southard, Stokes, Talbot, Van Buren, Van Dyke, Walker, Ware, and Williams of Tennessee—28.

NAYS—Messrs. Barton, Boardman, Brown of Ohio, Chandler, D'Wolf, Dickerson, Gaillard, Holmes of Maine, Knight, Noble, Palmer, Ruggles, Smith, Taylor, and Thomas—15.

So it was resolved, that the Senate do advise and consent to the appointment of Alexander Macomb, agreeable to the nomination.

On the question, "Will the Senate advise and consent to the appointment of Henry Atkinson, to be Colonel of the sixth regiment of infantry, with the brevet rank of Brigadier General?"

A division of the question was called for, and the vote was taken on the first member thereof, and determined as follows:

YEAS—Messrs. Barbour, Boardman, Brown of Louisiana, Brown of Ohio, Dickerson, Eaton, Edwards, Elliott, Findlay, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lanman, Macon, Mills, Morrill, Otis, Parrott, Pleasants, Southard, Stokes, Talbot, Van Buren, Van Dyke, Walker, and Williams of Tennessee—29.

NAYS—Messrs. Barton, Benton, Chandler, D'Wolf, Gaillard, Holmes of Maine, Noble, Palmer, Ruggles, Seymour, Smith, Taylor, Thomas, and Ware—14.

And the second member of the question having been agreed to, it was resolved, that the Senate do advise and consent to the appointment of Henry Atkinson, agreeably to the nomination.

The Senate then proceeded to consider, separately, the nominations contained in said message, which had not been finally acted on; and, resolved, that they do advise and consent to the said appointments agreeably to the nominations, respectively, with the exception of Samuel B. Archer, Daniel Parker, J. R. Fenwick, and William Bradford; which were, on motion, ordered to be postponed to Tuesday next.

On motion, by Mr. SMITH, to reconsider the vote of yesterday on the nomination of James Gadsden, it was determined as follows:

YEAS—Messrs. Barbour, Brown of Louisiana, Brown of Ohio, Chandler, Eaton, Edwards, Elliott, Findlay, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lanman, Mills, Noble, Otis, Parrott, Smith, Southard, Stokes, Williams of Mississippi—23.

NAYS—Messrs. Barton, Benton, Boardman, D'Wolf, Dickerson, Gaillard, Holmes of Maine, Macon, Morrill, Palmer, Pleasants, Ruggles, Seymour, Talbot, Taylor, Thomas, Van Buren, Van Dyke, Walker, Ware, and Williams of Tennessee—21.

On the question, "Will the Senate advise and consent to the appointment of James Gadsden to be Adjutant General?" it was determined as follows:

YEAS—Messrs. Barbour, Brown of Louisiana, Brown of Ohio, Eaton, Edwards, Elliott, Findlay, Holmes of Mississippi, Johnson, of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Knight, Lanman, Mills, Otis, Parrott, Smith, Southard, Stokes, Williams of Mississippi—21.

NAYS—Messrs. Barton, Benton, Boardman, Chandler, D'Wolf, Dickerson, Gaillard, Holmes of Maine, Macon, Morrill, Noble, Palmer, Pleasants, Ruggles, Seymour, Talbot, Taylor, Thomas, Van Buren, Van Dyke, Walker, Ware, Williams of Tennessee—13.

So it was *Resolved*, That the Senate do *not* advise and consent to the appointment of James Gadsden, to be Adjutant General.

On motion, by Mr. BENTON,
Resolved, That the Committee on Military Affairs inquire into the facts, and inform the Senate, whether Colonel Robert Butler has resigned, or refused to accept the place of Colonel or Lieutenant Colonel in the Military Peace Establishment of the United States, and whether his resignation has been accepted.

TUESDAY, March 26.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

Having executed the act, entitled "An act to reduce and fix the Military Peace Establishment of the United States," on great consideration, and according to my best judgment; and, inferring from the rejection

tion of the nomination of Colonel Towson and Colonel Gadsden, officers of very distinguished merit, that the view which I took of that law, has not been well understood, I hereby withdraw all the nominations on which the Senate has not decided, until I can make a more full communication and explanation of that view, and of the principles on which I have acted, in the discharge of that very delicate and important duty.

JAMES MONROE.

WASHINGTON, March 26, 1822.

The Message was read.

FRIDAY, April 12.

The following Messages, from the PRESIDENT OF THE UNITED STATES, were received :

To the Senate of the United States :

Having cause to infer that the reasons which led to the construction which I gave to the act of the last session, entitled "An act to reduce and fix the Peace Establishment of the United States, have not been well understood, I consider it my duty to explain, more fully, the view which I took of that act, and of the principles on which I executed the very difficult and important duty enjoined on me by it.

To do justice to the subject it is thought proper to show the actual state of the Army before the passage of the late act, the force in service, the several corps of which it was composed, and the grades and number of officers commanding it. By seeing distinctly the body in all its parts on which the law operated ; viewing also, with a just discrimination, the spirit, policy, and positive injunctions of that law, with reference to precedents, established in a former analogous case, we shall be enabled to ascertain, with great precision, whether these injunctions have, or have not been strictly complied with.

By the act of the 3d of March, 1815, entitled "An act fixing the Military Peace Establishment of the United States," the whole force in service was reduced to ten thousand men, infantry, artillery, and riflemen, exclusive of the corps of engineers, which was retained in its then state. The regiment of light artillery was retained as it had been organized by the act of the 3d March, 1814. The infantry was formed into nine regiments, one of which consisted of riflemen. The regiments of light artillery, infantry, riflemen, and corps of engineers, were commanded each by a colonel, lieutenant colonel, and the usual battalion and company officers ; and the battalions of the corps of artillery, of which there were eight, four for the Northern and four for the Southern division, were commanded by lieutenant colonels, or majors, there being four of each grade. There were, therefore, in the Army, at the time the late law was passed, twelve colonels belonging to those branches of the Military Establishment. Two major generals and four brigadiers were likewise retained in service by this act ; but the staff, in several of its branches, not being provided for, and being indispensable, and the omission inadvertent, proceeding from the circumstances under which the act was passed, being at the close of the session, at which time intelligence of the peace was received, it was provisionally retained by the President, and provided for afterwards by the act of the 24th of April, 1816. By this act the Ordnance department was preserved as it had been organized by

the act of February 8, 1815, with one colonel, one lieutenant colonel, two majors, ten captains, and ten first, second, and third lieutenants. One adjutant and inspector general of the Army, two adjutant generals, one for the Northern and one for the Southern division, were retained. This act provides, also, for a paymaster general, with a suitable number of regimental and battalion paymasters, as a part of the general staff, constituting the Military Peace Establishment ; and the pay department, and every other branch of the staff, were subjected to the rules and articles of war.

By the act of March 2, 1821, it was ordained that the Military Peace Establishment should consist of four regiments of artillery, and of seven of infantry, with such officers of engineers, ordnance, and staff, as were therein specified. It is provided that each regiment of artillery should consist of one colonel, one lieutenant colonel, one major, and nine companies, with the usual company officers, one of which to be equipped as light artillery ; and that there should be attached to each regiment of artillery one supernumerary captain to perform ordnance duty, thereby merging the regiment of artillery and ordnance department into these four regiments. It was provided, also, that each regiment of infantry should consist of one colonel, one lieutenant colonel, one major, and companies, with the usual company officers. The corps of engineers, bombardiers excepted, with the topographical engineers and their assistants, were to be retained under the existing organization. The former establishment, as to the number of major generals and brigadiers, was curtailed one-half, and the office of inspector and adjutant general to the Army, and of adjutant general to each division, annulled, and that of adjutant general to the Army instituted. The quartermaster, paymaster, and commissary departments, were, also, specially provided for, as was every other branch of the staff, all of which received a new modification, and were subjected to the rules and articles of war.

The immediate and direct operation of this act on the Military Peace Establishment of 1815, was that of reduction, from which, no officer belonging to it was exempt, unless it might be the topographical engineers ; for, in retaining the corps of engineers, as was manifest, as well by the clear import of the section relating to it, as by the provisions of every other clause of the act, reference was had to the organization, and not to the officers of the corps. The establishment of 1815 was reduced from 10,000 to about 6,000 men. The eight battalions of artillery, constituting what was called the corps of artillery, and the regiment of light artillery, as established by the act of 1815, were to be incorporated together, and formed into four new regiments. The regiments of infantry were to be reduced from nine to seven, the rifle regiment being broken. Three of the general officers were to be reduced, with very many of the officers belonging to the several corps of the Army, and particularly of the infantry. All the provisions of the act declare, of what number of officers and men the several corps provided for it should thenceforward consist, and not, that any corps, as then existing, or any officer of any corps, unless the topographical engineers were excepted, should be retained. Had it been intended to reduce the officers by corps, or to exempt the officers of any corps from the operation of the law ; or, in the organization of the several new corps, to confine the selection of the offi-

Executive Proceedings.

cers to be placed in them to the several corps of the like kind, then existing, and not extend it to the whole military establishment, including the staff; or to confine the reduction to a proportional number of each corps, and of each grade in each corps, the object, in either instance, might have been easily accomplished by a declaration to that effect. No such declaration was made, nor can such intention be inferred. We see, on the contrary, that every corps of the Army, and staff, was to be reorganized, and most of them reduced in officers and men; and that, in arranging the officers from the old to the new corps, full power was granted to the President to take them from any and every corps of the former establishment, and place them in the latter. In this latter grant of power, it is proper to observe that the most comprehensive terms that could be adopted were used, the authority being to cause the arrangement to be made from the officers of the several corps, then in the service of the United States, comprising, of course, every corps of the staff, as well as of artillery and infantry, and not from the corps of troops, as in the former act, and without any limitation as to grades.

It merits particular attention, that, although the object of this latter act was reduction, and such its effect, on an extensive scale, five new offices were created by it; four of the grade of colonel for the four regiments of artillery, and that of adjutant general for the Army. Three of the first mentioned were altogether new, the corps having been newly created; and, although one officer of that grade, as applicable to the corps of light artillery, had existed, yet, as that regiment was reduced, and all its parts reorganized, in another form, and with other duties, being incorporated into the four new regiments, the commander was manifestly displaced, and incapable of taking the command of either of the new regiments, or any station in them, until he should be authorized to do so by a new appointment. The same remarks are applicable to the office of adjutant general to the Army. It is an office of new creation, differing from that of adjutant and inspector general, and likewise from that of adjutant general to a division, which were severally annulled. It differs from the first in title, rank, and pay, and from the two latter because they had been created by law, each for a division; whereas the new office, being instituted without such special designation, could have relation only to the whole Army. It was manifest, therefore, that neither of those officers had any right to this new station, nor to any other station, unless he should be specially appointed to it, the principle of reduction being applicable to every officer in every corps. It is proper, also, to observe, that the duties of adjutant general, under the existing arrangement, correspond, in almost every circumstance, with those of the late adjutant and inspector general, and not with those of an adjutant general of a division.

To give effect to this law, the President was authorized, by the 12th section, to cause the officers, non-commissioned officers, artificers, musicians, and privates, of the several corps, then in the service of the United States, to be arranged in such manner as to form, and complete out of the same, the force thereby provided for, and to cause the supernumerary officers, non-commissioned officers, artificers, musicians, and privates, to be discharged from the service.

In executing this very delicate and important trust, I acted with the utmost precaution. Sensible of what I owed to my country, I felt strongly the obligation of

observing the utmost impartiality in selecting those officers who were to be retained. In executing this law I had no personal object to accomplish, or feeling to gratify; no one to retain, no one to remove. Having, on great consideration, fixed the principles on which the reduction should be made, I availed myself of the example of my predecessor, by appointing, through the proper department, a board of general officers to make the selection, and whose report I adopted.

In transferring the officers from the old to the new corps, the utmost care was taken to place them, in the latter, in the grades and corps to which they had respectively belonged in the former, so far as it might be practicable. This, though not enforced by the law, appearing to be just and proper, was never departed from, except in peculiar cases, and under imperious circumstances.

In filling the original vacancies in the artillery, and in the newly-created office of adjutant general, I considered myself at liberty to place in them any officer belonging to any part of the whole military establishment, whether of the staff or line. In filling original vacancies, that is, offices newly-created, it is my opinion, as a general principle, that Congress have no right, under the Constitution, to impose any restraint, by law, on the power granted to the President, so as to prevent his making a free selection of proper persons for these offices from the whole body of his fellow citizens. Without, however, entering here into that question, I have no hesitation in declaring it as my opinion, that the law fully authorized a selection from any branch of the whole Military Establishment of 1815. Justified, therefore, as I thought myself, in taking that range, by every the highest sanction, the sole object to which I had to direct my attention was the merit of the officers to be selected for those stations. Three Generals, of great merit, were either to be dismissed, or otherwise provided for. The very gallant and patriotic defender of New Orleans had intimated his intention to retire, but, at my suggestion, expressed his willingness to accept of the office of Commissioner to receive the cession of the Floridas, and of Governor for a short time, of that Territory. As to one, therefore, there was no difficulty. For the other two, provision could only be made in the mode which was adopted. General Macomb, who had signalized himself in the defence of Plattsburg, was placed at the head of the corps of engineers, to which he had originally belonged, and in which he had acquired great experience, Colonel Armistead, then at the head of that corps, having voluntarily accepted one of the new regiments of artillery, for which he possessed very suitable qualifications. General Atkinson, likewise an officer of great merit, was appointed to the newly-created office of Adjutant General. Brevet General Porter, an officer of great experience in the artillery, and merit, was appointed to the command of another of those regiments. Colonel Fenwick, then the oldest lieutenant colonel of artillery, and who had suffered much in the late war by severe wounds, was appointed to a third; and Colonel Towson, who had served with great distinction in the same corps, and been twice brevetted for his gallantry in the late war, was appointed to the last remaining one. General Atkinson, having declined the office of Adjutant General, Colonel Gadsden, an officer of distinguished merit, and believed to possess qualifications suitably adapted to it, was appointed in his stead. In making the arrangement, the merits of Colonel Butler

Executive Proceedings.

and Colonel Jones were not overlooked. The former was assigned to the place which he would have held in the line, if he had retained his original lineal commission; and the latter to his commission in the line, which he had continued to hold with his staff appointment.

That the reduction of the Army, and the arrangement of the officers, from the old to the new establishment, and the appointments referred to, were, in every instance, strictly conformable to law, will I think be apparent. To the arrangement, generally, no objection has been heard; it has been made, however, to the appointments to the original vacancies, and particularly to those of Colonel Towson and Colonel Gadsden. To those appointments, therefore, further attention is due. If they were improper, it must be either that they were illegal, or that the officers did not merit the offices conferred on them. The acknowledged merit of the officers, and their peculiar fitness for the offices to which they were respectively appointed, must preclude all objection on that head. Having already suggested my impression, that, in filling offices newly created, to which, on no principle whatever, any one could have a claim of right, Congress could not, under the Constitution, restrain the free selection of the President, from the whole body of his fellow citizens, I shall only further remark that, if that impression is well founded, all objections to these appointments must cease. If the law imposed such restraint, it would, in that case, be void. But, according to my judgment, the law imposed none. An objection to the legality of those appointments must be founded, either on the principle that those officers were not comprised within the corps then in the service of the United States, that is, did not belong to the Peace Establishment, or that the power granted by the word "arrange," imposed on the President the necessity of placing in these new offices, persons of the same grade only from the old. It is believed that neither objection is well founded. Colonel Towson belonged to one of the corps then in the service of the United States, or, in other words, of the Military Peace Establishment. By the act of 1815, 1816, the Pay Department, of which the Paymaster General was the chief, was made one of the branches of the staff, and he, and all those under him, were subjected to the rules and articles of war. The appointment, therefore, of him, and especially to a new office, was strictly conformable to law.

The only difference between the 5th section of the act of 1815, for reducing the army, and the 12th section of the act of 1821, for still further reducing it, by which the power to carry those laws into effect was granted to the President, in each instance, consists in this, that, by the former, he was to cause the arrangement to be made of the officers, non-commissioned officers, musicians, and privates, of the several corps of troops then in the service of the United States, whereas, in the latter, the term troops was omitted. It cannot be doubted, that that omission had an object, and that it was thereby intended to guard against misconstruction in so very material and important a circumstance, by authorizing the application of the act, unequivocally, to every corps of the staff, as well as of the line. With that word, a much wider range was given to the act of 1815, on the reduction which then took place, than under the last act. The omission of it, from the last act, together with all the sanctions which were given by Congress, to the construction of the law, in the reduction made under the former, could

not fail to dispel all doubt as to the extent of the power granted by the last law, and of the principles which ought to guide, and on which it was thereby made the duty of the President to execute it. With respect to the other objection, that is, that officers of the same grade, only, ought to have been transferred to these new offices, it is equally unfounded. It is admitted, that officers may be taken from the old corps, and reduced, and arranged in the new, in inferior grades, as was done under the former reduction. This admission puts an end to the objection in this case; for, if any officer may be reduced and arranged, from one corps to another, by an entire change of grade, requiring a new commission, and a new nomination to the Senate, I see no reason why an officer may not be advanced in like manner. In both instances, the grade, in the old corps, is alike disregarded. The transfer from it to the new, turns on the merits of the party; and, it is believed, that the claim in this instance is felt by all with peculiar sensibility. The claim of Colonel Towson is the stronger, because the arrangement of him to the office to which he is now nominated, is not to one from which any officer has been removed, and to which any other officer may, in any view of the case, be supposed to have had a claim. As Colonel Gadsden held the office of Inspector General, and, as such, was acknowledged by all to belong to the staff of the Army, it is not perceived on what ground his appointment can be objected to.

If such a construction is to be given to the act of 1821, as to confine the transfer of officers from the old to the new establishment, to the corps of troops, that is to the line of the Army, the whole staff of the Army, in every branch, would not only be excluded from any appointment in the new establishment, but altogether disbanded from the service; it would follow, also, that all the officers of the staff, under the new arrangement, must be filled by officers belonging to the new establishment, after its organization and their arrangement in it. Other consequences not less serious would follow. If the right of the President to fill these original vacancies, by the selection of officers from any branch of the whole Military Establishment, was denied, he would be compelled to place in them officers of the same grade, whose corps had been reduced, and they with them. The effect, therefore, of the law, as to those appointments, would be to legislate into office men who had been already legislated out of office, taking from the President all agency in their appointment. Such a construction would not only be subversive of the obvious principles of the Constitution, but utterly inconsistent with the spirit of the law itself; since it would provide officers for a particular grade, and fix every member of that grade in those offices at a time when every other grade was reduced, and among them generals and other officers of the highest merit. It would also defeat every object of selection, since colonels of infantry would be placed at the head of regiments of artillery, a service in which they might have had no experience, and for which they might, in consequence, be unqualified.

Having omitted, in the message to Congress at the commencement of the session, to state the principles on which this law had been executed, and having imperfectly explained them in the message to the Senate of the 17th of January last, I deem it particularly incumbent on me, as well from a motive of respect to the Senate, as to place my conduct in the duty imposed on me by that act in a clear point of view, to make

Executive Proceedings.

this communication at this time. The examples under the law of 1815, whereby officers were reduced and arranged from the old corps to the new, in inferior grades, fully justify all that has been done under the law of 1821. If the power to arrange, under the former law, authorized the removal of one officer from a particular station, and the location of another in it, reducing the latter from a higher to an inferior grade, with the advice and consent of the Senate, it surely justifies, under the latter law, the arrangement of these officers, with a like sanction, to offices of new creation, from which no one had been removed, and to which no one had a just claim. It is on the authority of these examples, supported by the construction which I gave to the law, that I have acted, in the discharge of this high trust. I am aware that many officers of great merit, having the strongest claims on their country, have been reduced, and others dismissed; but, under the law, that result was inevitable. It is believed that none have been retained, who had not, likewise, the strongest claims to the appointments which have been conferred on them. To discriminate between men of acknowledged merit, especially in a way to affect so sensibly and materially their feelings and interests, for many of whom I have personal consideration and regard, has been a most painful duty; yet, I am conscious that I have discharged it with the utmost impartiality. Had I opened the door to change, in any case, even where error might have been committed, against whom could I afterwards have closed it, and into what consequences might not such a proceeding have led? The same remarks are applicable to the subject, in its relation to the Senate, to whose calm and enlightened judgment, with these explanations, I again submit the nominations which have been rejected.

JAMES MONROE.

WASHINGTON April 12, 1822.

To the Senate of the United States:

I nominate Nathan Towson, to be Colonel of the 2d regiment of artillery.

James Gadsden, to be Adjutant General of the Army of the United States.

JAMES MONROE.

WASHINGTON, April 12, 1822.

The Messages were severally read, and, on motion, ordered, that they be severally referred to the Committee on Military Affairs, to consider and report thereon; and that they be printed for the use of the Senate, under an injunction of secrecy.

On motion, *Ordered*, That the Message of the 21st January last, nominating to promotions and appointments in the Army, be recommitted to the Committee on Military Affairs, further to consider and report thereon, and that it be reprinted for the use of the Senate, under an injunction of secrecy.

On motion, *Ordered*, That the Message of the 26th March, withdrawing certain nominations to appointments in the Army, be referred to the Committee on Military Affairs, to consider and report thereon, and that it be printed for the use of the Senate, under an injunction of secrecy.

Mr. WILLIAMS communicated to the Senate the following letter:

WAR DEPARTMENT, Jan. 29, 1822.

SIR: I have submitted to the President, for his direction, your letter of the 17th instant, in which you

state, that the Committee on Military Affairs are of the opinion that the appointment of Colonel Gadsden to the office of Adjutant General, when there were at the time of his appointment two Adjutant Generals in service; that the appointment of Colonel Towson, not at the time an officer in the line of the Army, to be Colonel of artillery; and the transfer of Lieutenant Colonel Lindsay, of the 7th infantry, to fill a vacancy in the 4th artillery, occasioned by the resignation of Lieutenant Colonel Mitchell, subsequently to the arrangement of the Army, established May 17, 1821, and after the 1st of June, the time limited by law, for the organization of the Army, are not conformable to the provisions of the law nor to the regulations of the Army; and request me to communicate to them the grounds and authority on which the appointments and transfer before mentioned have been made; and I am directed by him to state to the committee, that, in making the appointments and transfer in question, he was governed by that construction of the laws and regulations in relation to the subject of inquiry, which appeared to him conformable to their real intention, and to the principles established in reducing the Army, under the act of the 3d of March, 1815, for fixing the Peace Establishment at the termination of the late war; the provisions of which act, in relation to the points in question, being similar to those in the act of the 2d March, 1821, under which the late reduction was made.

He also directs me to state to the committee, that he has submitted to the Senate the cases to which they have objected, as well as others of a similar character, growing out of the late reduction, by a nomination to them for their Constitutional sanction.

The committee appear to be under a mistake as to the facts in relation to the appointment of Colonel Gadsden, as Adjutant General. Instead of two Adjutant Generals being in service at the time he was appointed, (the 13th of August last,) as the committee suppose, there was no officer of that grade in the service at the time. Colonel Gadsden, in the arrangement of the Army under the act of making the late reduction, was retained as Inspector General, which office he held before the reduction, and the Adjutant Generals of the Northern and Southern divisions, (Colonels Butler and Jones,) to whom it is supposed the committee refer, had been arranged, the former to the 4th infantry provisionally, and the latter to his place in the line of artillery, as will appear by a reference to the register herewith transmitted. General Atkinson, who had been arranged to the office of Adjutant General, declined accepting it, and Colonel Gadsden was appointed by the President to fill the vacancy, in conformity to the provisions of the 10th section of the act of the 24th of April, 1816, "for organizing the general staff," &c., which authorizes the President to appoint staff officers from the line of the Army, or from citizens, without any limitation. But, admitting that the committee were correct in their statement, and that Colonel Gadsden, at the time of the reduction, had been arranged to the place of Adjutant General, there being two Adjutant Generals then in service, instead of being retained as Inspector General, the principles established in the reduction of the Army, under the act of the 3d of March, 1815, would have fully justified the arrangement. The provisions of the two acts for reducing the Army are, in relation to this point, precisely the same. In the reduction under the act of 3d March, 1815, Colonel Hayne, Inspector

Executive Proceedings.

General at the time, was provisionally retained as Adjutant General of the North division, there being, at that time, eight Adjutant Generals in the service, which arrangement received the sanction of Congress, in the act already referred to, of the 24th April, 1816, the 10th section of which confirmed the provisional arrangement of the staff officers.

In relation to the transfer of Lieutenant Colonel Lindsay to the corps of artillery, after the 1st of June, the time limited by law for the reorganization, to which the committee object, as not being conformable to law and regulation, it is proper to observe, that it is fully supported by the precedent established in the reduction of the Army, under the act of 1815. Under that act, the Army Register, by general orders, (see Register for 1815, herewith transmitted, marked A.) was kept open to fill vacancies of any grade, which might occur, from among the reduced officers, from the 17th of May, 1815, to the 17th of May, 1816. Under this order, eighteen transfers from and to various corps, and sixty appointments from disbanded officers, were made, which will appear by reference to the general order of the 17th of May, 1816, a copy of which is herewith transmitted (marked B.) Under the late reduction, the register was kept open, for the purpose of transferring only, from the 1st of June to the 1st of January last, as will appear by reference to the register, and only two officers, Lieutenant Colonel Lindsay, and Lieutenant Walker, were transferred, excepting such as were made on mutual application for that purpose. It may be said that a reduction so great as that which was made after the late war, justified the principle then adopted, but that there existed no necessity to apply it to the late reduction. The difference between the two cases is no doubt great, as is the difference between the extent to which the principle was carried in them; but, to an objection to the power of the President under the laws and regulations, which the committee is understood to make, it is believed that the consideration of greater or less expediency can have no weight.

Lieutenant Colonel Lindsay, before the late reduction, was Lieutenant Colonel of artillery, in which corps he had served eight years; but, on the late reduction, he was arranged to the infantry. On the resignation of Lieutenant Colonel Mitchell, it was considered as an act of simple justice to transfer him back to his proper corps, from which, in the reduction, he had been removed, only from the necessity of the case. It was, however, not an act of justice to Lieutenant Colonel Lindsay only, but more emphatically so to three other meritorious officers. In the late reduction, Lieutenant Colonel Taylor, and Major Woolley, on General Atkinson's being arranged as Colonel of the 6th infantry, would have been reduced, from necessity, as junior officers in their grades, to inferior grades, had not Lieutenant Colonel Lindsay been transferred to the artillery, which transfer, making a vacancy in the infantry of the grade which he held, restored the two former to the rank from which they had been reduced, and retained Captain Cobb in service by the arrangement. Such were the motives for the transfer, which were considered much stronger than those which opposed it. Had the transfer not been made, brevet Lieutenant Colonel Eustis would have been raised to a full Lieutenant Colonel, by promotion; brevet Major Wilson to be Major; brevet Captain Welch to be Captain; and Second Lieutenant Cooper to be First Lieutenant. As highly valuable as

these officers are esteemed, with them it was a question of promotion, while, with the others, of equal merit, it was that of reduction; between which the President could not hesitate, believing he possessed the power. If the construction given to the act of 1815 should be supposed to be the one intended to be given to the act making the late reduction, and it is not perceived how a different supposition can be admitted, the wording of the two acts being similar, and the construction given to the former being well known, it would seem to admit of little doubt that the President was authorized to consider the Military Establishment, under the act making the late reduction, as not definitely closed at the time of issuing the general order of the 17th May, to which the committee refer, nor as being necessarily closed, even on the 1st June. The general orders designate, it is true, the officers to be retained, with their grades and corps, but the same orders announced, that, until the 1st January, the President, in conformity to the power exercised in the former reduction, did not consider the arrangement as to the corps to which the officers were attached, as definitive, reserving, until that time, the right of making transfers. In keeping open the definitive adjustment of the establishment until the time specified, the President was governed by a due regard to the good of the service, and to the just claims of the officers, by correcting, as far as it could be done with propriety, cases of great hardship, such as that of Lieutenant Colonel Lindsay, and the others connected with it.

It only remains to consider the case of Colonel Townsend, to whose appointment in the corps of artillery it is objected by the committee, that he did not belong at the time to the line of the Army. The 12th section of the act of the 2d of March last, to reduce the Military Establishment, authorizes the President to "arrange the officers, non-commissioned officers, artificers, musicians, and privates, of the several corps now in the service of the United States, in such manner as to form and complete out of the same the force authorized by this act." In considering the authority of the President under this section, it became a question with him whether it was the intention of Congress that each corps should be reduced and arranged by itself; that is, those officers belonging to the corps of artillery or infantry should be retained only in the artillery or infantry, as the case might be, in their proper grades, and so in relation to the several branches of the staff, or that a more liberal construction should be given, so that the officers of the several corps might be arranged to any corps in the same, or different and inferior grades, care being taken that no officer should be removed, without reason, from his corps or grade. In determining which of these constructions ought to prevail, reference was had to the construction adopted under the fifth section of the act of 1815, fixing the Peace Establishment, from which the section under consideration was obviously taken, being in almost the same words. It was believed to be a fair deduction that Congress, in adopting the same provisions in both, intended that the two sections should receive the same construction, and, as the 5th section of the act of 1815 had received the freest construction, (see table herewith transmitted, marked C,) the President determined that Congress did not intend, in the act making the late reduction, that, in arranging the officers to constitute the present establishment, he should be restrained to the particular corps and grade to which they belonged, but that it was intended that he

Executive Proceedings.

should give the same construction which the former act had received. He was confirmed in the belief that such was the intention of Congress from the fact, that, in the particular instance in which the wording of the two sections differ, that of the act making the late reduction is less limited, indicating on the part of Congress a disposition to enlarge rather than to restrain the power of the Executive; and from the manifest injury which would result from the opposite construction, both to the public and to the officers of the Army. Were the officers of every corps and grade possessed of equal merit and claims on the public for length and importance of their service, but little inconvenience could result from adopting the most rigid construction; but, as that cannot be expected, it was obviously advantageous, both to the public service and the officers, that a more liberal construction should be adopted. Under a rigid construction, many cases of great hardship would have occurred. Not to notice many others, such a construction would have disbanded two general officers (General Macomb and Atkinson) of great merit, and having strong claims on the public, which, from the necessity of the case, could only be provided for in inferior grades and corps to which they did not belong, as general officers are not attached to any particular corps. Under the liberal construction adopted, and which was fully sanctioned by the precedent growing out of the former reduction, Colonel Towson, the Paymaster General at the time of the late reduction, was appointed by the President to fill the rank of colonel in one of the regiments of artillery created by the act reducing the Army, and being consequently an original vacancy. The Army regulation provides (see 4th article of the regulations) that such vacancies may be filled by selection, at the discretion of the President; and there is in the act for reducing the Army no limitation on the power of the President in filling the original vacancies under the act, which would restrain him in his selection, either to the line or to the staff. The only limitation in this particular which can be inferred from the act is, that the selection should not extend beyond the Military Establishment, which comprehends the pay department as a portion of the staff. Under these impressions, the President did not hesitate to appoint Colonel Towson to the command of one of the new regiments of artillery, it being a corps in which he had in the late war acquired great experience and reputation, both for himself and country.

I have the honor to be, &c.

J. C. CALHOUN.

Hon. WM. EUSTIS,

Chairman Mil. Com. Ho. of Reps.

THURSDAY, April 25.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the Army nominations, and the two Messages of the President on that subject, reported as follows:

That they have carefully examined the reductions of the Army, made in 1802 and 1815, for the purpose of discovering if there were precedents which would justify the course pursued in the reduction of 1821. The result of the examination is, that the three acts of Congress are substantially the same, but the practice under them has been widely different. In 1802 Mr. Jefferson executed the law strictly. In 1815 Mr. Madison departed from the law, by retaining officers in a grade

below the rank they formerly held in the Army; and, in 1821, not only was the precedent of 1815 pursued, but principles were introduced unknown to our military code. The provisions of the law of the 2d March, 1821, were disregarded in many particulars. The committee have examined the argument in the Message, which is intended to justify the transfer of Colonel Lindsay from the infantry to the artillery, subsequent to the first of June, 1821, and have formed an opinion different from that entertained by the President. The transfer is attempted to be supported on the exception alleged to exist in the 75th article of the rules and regulations established for the government of the Army, which article is in the following words: "The transfer of officers will only be made by the War Department, in orders, on the mutual application of the parties, except in extraordinary cases. See 63d article of war. Nor shall any officer be transferred into a regiment to the prejudice of the rank of any officer thereof. When officers are transferred at their own request, the order for change of station will specify the fact." On referring to the 63d article, which is in the following words: "The functions of the engineers being generally confined to the most elevated branch of military science, they are not to assume, nor are they subject to be ordered on any duty beyond the line of their immediate profession, except by the special order of the President of the United States; but they are to receive every mark of respect to which their rank in the Army may entitle them, respectively, and are liable to be transferred at the discretion of the President, from one corps to another, regard being paid to rank." It will be seen that this article relates exclusively to the engineer corps, and consequently there is no legal authority for the transfer of Colonel Lindsay from the infantry to the artillery. The 75th article, referred to by the President, determines the principle, and in fact the rule, by which transfers can be lawfully made. The article provides, "that the transfer of officers will only be made by the War Department, in orders, on the application of the parties, except in extraordinary cases." See 63d article of war, &c. It is not pretended, in this case, that the parties applied for a transfer; but, on the contrary, the transfer gave great displeasure, because it took away the rank and the right of promotion from all the officers under Colonel Lindsay, in the corps of artillery, and gave to the infantry officers a fictitious rank to which they were not entitled.

Independently of this view of the subject, which the committee consider conclusive, there is another ground which places this question beyond the possibility of doubt. During the last session of Congress, the book of regulations was printed, and each member furnished with a copy. By comparing the 75th article in this book with the same article in the book lately printed for the use of the Army, it will be found that the exception relied upon by the President is an interpolation, and is not in the original submitted to Congress when that body was called on last session to enact these regulations into law. The President, however, submits to the Senate for confirmation only the names of the officers on the list accompanying the Message. On examining this list, the name of Colonel Lindsay is not to be found. It is, therefore, in the opinion of the committee, not competent for the Senate, at this time, to control this illegal transfer.

The committee, on examining the new register of the Army, find many irregularities, and beg leave to

Executive Proceedings.

refer to one in the Inspector's department. The 6th section of the act, passed the 2d of March, 1821, to reduce and fix the Military Peace Establishment, provides that there shall be two Inspectors General, with the rank, pay, and emoluments, of Colonels of cavalry. The terms of the act in relation to these two officers are precisely the same; but a construction has been given to the act very different as regards these two officers. One of them, Colonel Wool, is in service *without*, and the other, Colonel Archer, *with* lineal rank. This arrangement is calculated to produce great sensibility among the officers of the Army, and to embarrass the service.

On the list accompanying the Message of the 17th of January, Colonel Towson is nominated to the Senate in the following words: "Second regiment of artillery, Nathan Towson, late captain light artillery, to be Colonel, 1st June, 1821." This nomination shows what is the fact, that Colonel Towson, some years ago, was a Captain in the light artillery, which office he resigned before he was appointed Paymaster General. It is usual, both in the Army and Naval nominations, to state the former rank of the officers, to enable the Senate to determine whether their promotions are regular, and according to the principles of seniority. If this description of Colonel Towson's former rank in the Army was given with this view, it is evident that the promotion is irregular, because it is to the prejudice of all the officers, under the grade of a Colonel, who ranked this gentleman whilst he was an officer in the artillery. The President in his Message does not rest the claims of Colonel Towson to the command of a regiment on the ground taken in the list of nominations, but further insists that the pay department, being a part of the Military Establishment, within the meaning of the act of 2d March, 1821, "constituted one of the corps of the Army," and it was competent for him, under the provisions of said act, to appoint Colonel Towson to the command of one of the regiments of artillery; Colonel Towson having resigned the captaincy which he formerly held in the Army, and accepted the office of Paymaster General.

The Message does not furnish the rule whereby he was translated from the Pay department to the command of a regiment, in preference to his old rank of Captain, or to a majority, or to the rank of Lieutenant Colonel. The Message not having furnished a rule on this subject, the committee were compelled to look into the law and former usage; and they come to the conclusion, that the Paymaster General could not legally be transferred from that situation to the command of a company, battalion, or regiment, and that he did not constitute one of the corps of the Army; that he was a salary officer, under bond and security; and the duties required of him were those of the quill, and not of the sword. The 12th section of the act of 2d March, 1821, is in the following words:

SEC. 12. *And be it further enacted*, That the President of the United States cause to be arranged the officers, non-commissioned officers, artificers, musicians, and privates, of the several corps now in the service of the United States, in such manner as to form and complete out of the same the force authorized by this act, and cause the supernumerary officers, non-commissioned officers, artificers, musicians, and privates, to be discharged from the service of the United States."

The question arises, on the construction of this section, "whether the Pay department constituted one of

the corps of the Army," out of which the President was required to arrange and complete the force retained by said act. The committee hold the negative of this proposition, and rely upon the law of the land and military usage to sustain them in this position.

It is provided in the 6th section of the act of the 24th April, 1816, that all paymasters, commissaries, and storekeepers, shall be subject to the rules and articles of war, in the same manner *as commissioned officers*: Provided, also, that all officers of the pay and commissary departments be submitted to the Senate for their confirmation, in the same manner as the officers of the Army.

Here are but two points wherein the three classes of officers, above enumerated, are likened unto officers of the Army. But these apparent assimilations are not confined alone to these public agents. Officers of marines, when on shore, are subject to the "rules and articles of war;" and judges, foreign ministers, and most other officers under the Federal Government, are submitted to the Senate for confirmation. To be classed, therefore, with the officers of the Army, so as to come within the obvious meaning of the above recited 12th section of the act of 21st March, 1821, the Paymaster General should be clothed, by law, with other and more important military properties than the two above mentioned. But the President, in his Message, insists, that the pay department is a part of the Military Establishment. This is admitted. Military Establishment is a comprehensive term, and includes every one subject to martial law. By recurring, however, to the 12th section of the act before cited, the words "Military Establishment" are not to be found. The terms used are, "the several corps now in service," out of which he was to "arrange" the force retained by the act. Admitting the Paymaster General to be a staff officer, his duties are of a civil character, and may be classed with the Commissary of Purchases, the Surgeon General, chaplains, storekeepers, wagon masters, sutlers, &c. These officers have neither rank nor command in the Army. They have no prescribed uniform; nor do they wear either sword or epaulettes. Their duties are peaceful. They are non-combatants. In civilized warfare, if taken prisoners, they would be liberated like other citizens; and the laws and usages of service distinctly mark their civil character. Army corps signifies a body of forces; not civil, but warlike forces; such as have prescribed uniforms and epaulettes, wear swords, or carry arms, such as muskets and bayonets, with which they meet and combat the enemy in the field. Major generals, brigadier generals, adjutant and inspector generals, and the like, properly speaking, constitute the staff of the Army. They have command and "assimilated rank" in the Army. They are men at arms and wear prescribed uniforms, swords, and epaulettes, and the laws and usages of service distinctly mark their warlike and military character. The argument in the Message that the President had the whole range of the Military Establishment, out of which he could, at pleasure, select the commanders of regiments, if it prove any thing, proves too much. It has already been shown that this is a comprehensive term, and it includes not only paymasters, surgeons, chaplains, storekeepers, sutlers, &c., but, also, all retainers of the Army who are subject to martial law. According to the usages of service, the President could, with the same military propriety, arrange any one of these civil characters to the command of regiments, as he could transfer Col-

onel Towson from the pay to the Military Department. In the sixth paragraph of the third article of the Army regulations it is provided, that "No officer of the staff, not having lineal rank, or rank *assimilated* thereto, shall command any officer whatever having such rank, but, on the other hand, the former shall be subordinate to the latter, under the following restrictions: 1st, the Commissary General of Purchases, the Surgeon General, the *Paymaster General*, and the Apothecary General, to general officers only," &c. Here a clear distinction is taken between two officers of the Army having rank, and staff officers having no rank: the latter, to wit, purchasing commissaries, the Surgeon, *Paymaster*, and Apothecary Generals, are prohibited from commanding even a second lieutenant.

The position taken by the Committee, in behalf of the Army, is applicable to the Navy also. The duties of a purser in the Navy are analogous to the duties of a paymaster in the Army. The principle which would justify the appointment of a paymaster to command a regiment, would authorize the appointment of a purser to command one of our ships-of-the-line, to the exclusion of the long list of gallant officers who have, by their valor, acquired so much renown for the country.

In the 8th section of the 1st article of the Constitution of the United States, it is provided, that Congress have power "to make rules for the government and regulation of the land and naval forces." In virtue of this power, Congress have directed, both in the land and naval service, that promotion shall be according to *seniority*. This principle has heretofore been held sacred. The Army and Navy were created for national purposes. By adhering to the principle of promotion, which is coeval with their existence, they will retain their national character. The individuals who compose those arms of national defence, have rights secured by law, and when these rights are violated, it is their privilege to appeal to the tribunals of the country for redress, (as many officers have done on this occasion to the Senate,) as a part of the Executive council of the nation. A departure from this principle would have the most fatal effect. It would verify the adage, that one campaign at Washington was worth two upon the lines. A system of favoritism in promotion would supply the place of law and regulation. The Army and Navy, instead of retaining their *national* character, would become the creatures of the Executive. Men of honor, whose rights had been violated, would be driven from the service, and those only retained who would patiently submit to any indignity. An army and navy composed of such materials, in times less virtuous than the present, would be dangerous instruments in the hands of those who would have the power to wield them. The committee believe that both law and policy unite in resisting every attempt to introduce such doctrines in our service.

The great object of the act of the 2d March, 1821, was to reduce and not to increase the military force of the country. But, with the view of improving the organization of the artillery, the battalions were converted into regiments, and four colonelcies were created. But it is denied that the office of adjutant general was created by that act, as will be hereafter shown. The question again recurs, whether these four offices were to be filled by officers then in service, or by citizens, or by non-combatant staff officers. The President insists that he had the right to fill those offices from the latter description of persons. The committee hold the negative of that proposition. Before

the passage of the act of the 2d of March, 1821, there were eleven regiments in service, to wit: one of rifle-men, one of ordnance, one of light artillery, and eight of infantry. By said act, eleven regiments were retained, to wit: four of artillery and seven of infantry. By the third section of the act, the corps of engineers was retained as then organized. When it is remembered that before the passage of the act there were eleven regiments, and the same number were retained by the act, it is a fair presumption that all the colonels, lieutenant colonels, and majors, were intended to be retained. This presumption is strengthened, when it is distinctly recollected that this exposition was given of the act by the committee who reported it, when the bill was discussed in the Senate. By recurring to the eleventh section of the act, this question rests no longer on presumption, but is made manifest by positive law. The eleventh section is in the following words: "That the officers, non-commissioned officers, artificers, musicians, and privates, retained by this act, except those specially provided for, shall have the same rank, pay, and emoluments, as are provided in like cases by existing laws; and that the force authorized and continued in service under this act shall be subject to the rules and articles of war." The twelfth section of the act before referred to, directs that the "President cause to be arranged the officers, &c., of the several corps now in service, in such manner as to form and complete out of the same the force" authorized by the act. The word *arrange* signifies "to put in proper order for any purpose." The purpose was to reduce the Army to the standard pointed out by the preceding sections of the act, and to put in proper order the officers, &c., "retained" by said act. The committee believe they cannot be mistaken in this conclusion; and that the term *arrange* does not mean to *create*, and put out of order, as it has been interpreted in the late reduction of the Army. The words of the act in relation to the four regiments of artillery are the same, but a construction has been given to it widely different. It has been made to mean "to put in order" as regards the first and third, and to "create and put out of order" as relates to the second and fourth regiments. Colonel Porter, who takes rank from the 12th of March, 1812, is "arranged" to the first regiment of artillery; and Colonel Armistead, who takes rank from the 12th November, 1818, is "arranged" to the third. But Colonels Towson and Fenwick are "appointed" to the second and fourth regiments, taking rank from the 1st of June, 1821. The President's Message of the 12th of April, 1822, when treating of the regiment of light artillery, formerly commanded by Colonel Porter, says, "that regiment was reduced, and all its parts re-organized in another form, and with other duties; being incorporated into the four new regiments, the commander was manifestly displaced, and incapable of taking the command of either of the new regiments, or any station in them, until he should be authorized to do so by a new appointment." The committee dissent from this proposition, and contend that the interpretation first given by the President to the twelfth section of the act, so far as relates to this officer, was the correct construction; and that he was authorized to "arrange" Colonel Porter to the command of either of the regiments of artillery, as he did "arrange" him to the first, without a re-appointment or nomination to the Senate; and that Colonel Porter was in the legal discharge of his official duties, under the commission which he had long before the reduction of the Army. The twelfth

Executive Proceedings.

section of the act authorized the President, after arranging the officers, &c., out of the former, so as to complete out of the same the retained army, to cause the "supernumerary" officers to be discharged from the service of the United States. By the thirteenth section of the act, it is provided "that there shall be allowed and paid to each commissioned officer, discharged from the service of the United States, in pursuance of this act, three months' pay, in addition to the pay and emoluments to which he may be entitled by law at the time of his discharge." The word *supernumerary* signifies above a stated number. The object of the act was reduction, and when the new standard was complete, by arranging from among the materials on hand, the residue or "supernumerary" officers were to be discharged, with three months' gratuitous pay. To discharge an officer legally, and pay him three months' additional pay, he must have been "in service" in the former army, and no place for him in the reduced army. He would then, and then only, be a "supernumerary" according to the provisions of the act, and then only could he be discharged in pursuance of the act. The committee regret to say, that several officers of great merit, who would not suffer by a comparison with those retained, have been discharged with gratuitous pay, on the alleged ground that they were "supernumeraries," or that there was no place provided for them under the law, when in truth and in fact, to the places provided for them by law, others not contemplated by the act were appointed. The Message assumes the ground that Congress could "not, under the Constitution, restrain the free selection of the President, from the whole body of his fellow-citizens, to appoint to these places." The Constitution of the United States provides that "Congress shall have power to make rules for the government and regulation of the land and naval forces." Under this article of the Constitution, it is competent for Congress to make such rules and regulations for the government of the Army and Navy as they may think will promote the service. This power has been exercised from the foundation of our Government, in relation to the Army and Navy. Congress have fixed the rule in promotions and appointments. Every promotion is a new appointment, and is submitted to the Senate for confirmation. In the several reductions of the Army and Navy, Congress have fixed the rules of reduction; and no Executive, heretofore, has denied this power in Congress, or hesitated to execute such rules as were prescribed.

The President "approved" and signed the act of the 2d March, 1821, and, at that time, made no declaration of an opinion that the law was unconstitutional, and thereby sanctioned its constitutionality. Having given his assent to this law, the committee believe he is, as well as all others, bound by it. The committee will not dispute the legal power of the President to discharge an officer from the land or naval service; but, in such case, the officer discharged would not be entitled to three months' additional pay, which has been paid to all the officers who have been put out of service in the late reduction. There is, therefore, no pretence for saying, as has been urged, that the President exercised his Constitutional power in discharging several officers. He says himself he acted "in pursuance" of the law. In the second section of the second article of the Constitution of the United States, it is provided, "that the President shall have power, by and with the advice and consent of the Senate, to ap-

point all officers of the United States whose appointments are not therein otherwise provided for, and which shall be established by law." By the construction heretofore given to this article, the Senate had the same power, and the same range of discretion to withhold their "advice" and "consent," that the President had to nominate; and the Senate would abuse the trust confided to them, if they were to ratify nominations, when either policy or law required their rejection. In the message accompanying the "renominations" of Colonels Towson and Gadsden, it is urged, that "if an officer may be reduced and arranged from one corps to another by an entire change of grade, requiring a new commission and a nomination to the Senate, there is no reason why an officer may not be advanced in like manner;" and the example of 1815 is relied upon in support of this position. It is true that, in the reduction of 1815, the law was departed from in the instance of retaining an officer in the grade below the rank he had before held in the Army. A great proportion of the officers in 1815, were retained on this principle; and when their names were submitted to the Senate, a considerable time after the reduction had been made, that body, with much hesitation, lent a reluctant assent to the arrangement, without supposing that this departure would be set up as a justification for another still more dangerous to the rights and character of the Army. The principle of razeing having been recognised in 1815, the Senate, under the authority of that precedent, in the reduction of 1821, have ratified the nominations of Generals Macomb and Atkinson, and Major Dalliba, officers who were razeed. The Senate having, by their decision in the reduction of 1821, gone as far as the precedents of 1815 would justify, the committee think it proper to pause and seriously to reflect, before they give their assent to the doctrines advanced in the message, whereby the President would be sustained in advancing second lieutenants to the head of our regiments, and midshipmen to the command of our ships-of-the-line, to the exclusion of colonels and naval commanders who are in service under the law.

It is correctly stated in the message that the fifth section of the act of 1815, contains the words "corps of troops," and the twelfth section of the act of 1821, uses the term "corps" out of which the force retained was to be constituted. It is conceded that omission had an object. But it was not intended that that omission should give to the President a wider range, or place his discretion above the provisions of the law, but was designed alone to improve the phraseology of the section, by omitting a superfluous word, without affecting the obvious meaning of that section. If it were necessary further to prove that the pay department does not constitute one of the "corps" of the Army out of which the Army retained was to be composed, the committee would refer to the commission issued to Mr. Brent, late paymaster, and urged by Mr. Jefferson; and, also, to the fact that this officer has heretofore been placed on the civil list in the different appropriation bills. These circumstances also distinctly mark his civil character.

If the committee should be mistaken in the correctness of the views before presented, and they feel confident they are not, there is a document among the proceedings of the board of general officers, which, independent of all other facts and arguments, proves, incontestably that the construction put by the committee on the act is the correct one, and that the proceed-

ings of the board of general officers, charged with the reduction of the Army, were not regulated either by the provisions of the law, or by any construction of it. The document is in the following words :

"The board of general officers, of which Major General Brown is president, being of opinion that Colonels Wadsworth, Bissell, King, and Smith, should not be retained, beg leave, respectfully, to recommend, that Brigadier General Atkinson be arranged to the office of Adjutant General, that General Parker be appointed to the office of Paymaster General, and that Colonels Towson and Bomford be appointed Colonels of artillery.

"JACOB BROWN, *President*.

"April 13, 1821."

It is thus seen that the board of general officers, who were called in to aid in the execution of the law to reduce the Army, and to "arrange" each officer to his proper place, commenced that work by recommending the President to put out four of the eleven colonels then in service. The board did not pretend that these officers were "supernumeraries," or that it was necessary to discharge them as such. It is, therefore, manifest they substituted their own will and pleasure, for the rule prescribed by law. It is in proof before the committee, that the original paper, containing this recommendation, was deposited in the Adjutant General's office for safe keeping, and, afterwards, at the request of General Brown, it was delivered to him, who immediately destroyed it.

The committee have examined with great care the message renominating Colonel Gadsden to be Adjutant General, and have looked in vain for an argument which could convince them that the decision lately made by the Senate was erroneous. It has been urged "that General Atkinson, who had been arranged to the office of Adjutant General, declined accepting it, and Colonel Gadsden was appointed by the President to fill the vacancy, in conformity to the provisions of the tenth section of the act of the 24th of April, 1816."

If the provisions of this act were inconsistent with the provisions of the act of the 2d March, 1821, so much of the former act as is so inconsistent, is repealed by the last mentioned act, and, of course, the appointment is not supported by the authority relied on. But the committee are in possession of a copy of a letter from General Atkinson to General Brown, dated St. Louis, 6th April, 1821, in answer to one which had been written to him on that subject, in which General Atkinson positively declines accepting the office of Adjutant General. This letter was received by General Brown on the 27th of the same month, and before General Atkinson was arranged by the board to the office of Adjutant General. When it was known, positively, that General Atkinson would not accept this office, why was he arranged to it? This arrangement was nominal, and could not have the effect of evading the law, or creating a vacancy which did not before exist; and the committee are of opinion that the tender of this office to General Atkinson, with a knowledge that he would not accept, did not produce a vacancy, and that, in deciding on the legality of Colonel Gadsden's appointment, this arrangement of General Atkinson must be left out of view. The 6th section of the act of the 2d March, 1821, is in the following words: "That there shall be one Adjutant General and two Inspectors General, with the rank, pay, and emoluments, of colonels of cavalry." Before the passage of the act there was one Adjutant and Inspector

General, two Inspectors General, and two Adjutants General. The object of the act was "reduction," and, with that view, the office of Adjutant and Inspector General was dispensed with; and, also, that of one Adjutant General, and the two offices of Inspector General, and one of Adjutant General, retained. This section having retained the two officers of Inspectors General, and the 11th section, before cited, having retained the incumbents, it was not supposed by any one that either or both of them could be discharged as supernumeraries, under the provisions of the act. By referring to the general order of May 17, 1821, it will be seen that those who were charged with the reduction of the Army were of this opinion. The law left these officers where it found them, and the general order announced that they remained in the offices they before held. But a very different construction was given to that part of the same section which relates to the Adjutant General. There were two Adjutants General in service, Colonels Butler and Jones, and the committee insist, by a fair construction of the act, one of them was "retained," and the President was authorized only to elect which of the two should be "discharged" as a "supernumerary."

It is contended in the Message that this was an "original vacancy," and it was competent for the President to discharge both Butler and Jones, and fill this office by appointing any other person. As the object of the act was to reduce the Army, and not create officers, it is fair to presume that excision was intended to be applied only where there was an excess, either in number or organization. This rule was applied to that part of the same section relating to the Inspectors General. As it regards them, there was no excess, and all agree that they were retained by the law. Colonels Butler and Jones had the rank, pay, and emoluments, of colonels of cavalry, the precise attributes of the Adjutant General secured to the Army by the act. But it is said that the Adjutant General of a division was deemed not to be co-ordinate with the Adjutant General of the Army. On the subject of their duties nothing has been prescribed. The laws are silent. Their rank, pay, and emoluments, are the same; and there is a perfect coincidence in all their endowments. The fifth section of the act provides that there shall be one Major General and two Brigadier Generals. There were then in service two Major Generals and four Brigadier Generals, making an excess of one-half. According to the principle applied to the Adjutant General, the commission of a Major General commanding a division is inferior to the same commission when the same person commands the whole Army; but the Major General of the late Northern division is now Major General of the Army of the United States in virtue of his former commission. The two cases are precisely similar. There were two Major Generals, making an excess of one; it cannot be inferred that they were both to be disbanded, and some citizen, or non-combatant staff officer, to be appointed to command the Army. Perfectly analogous is the case of the two Adjutants General; but the rule applied to them by the board has been different. The Major General of the late Northern division now commands the whole Army; but the two Adjutants General are both and singular "supernumerary officers," and as "Adjutants General" have both been discharged from the service of the United States. The committee cannot believe that this is a fair construction of the act; particularly when the board of general officers, charged with the reduction of the Army, have

Executive Proceedings.

adopted a different rule in their own case, which is precisely parallel to the case of the Adjutant General retained; and more especially when it is distinctly remembered that the construction now given to the sixth section of the act, by the committee, is the same which it received when the bill was discussed on its passage in the Senate. It has been further insisted, in support of the "appointment" of Colonel Gadsden, that it was fully justified by the retention of Colonel Hayne, in 1815. It is true that in 1815, at the close of the war, there were eight Adjutants General in service; and it is equally true that the law of 1815, "reducing and fixing the Army," disbanded the whole of them, not retaining even one; but the law of 1821 says, "there shall be one Adjutant General," with all the attributes of the two officers of that rank then in service.

In the absence of law, therefore, President Madison, on his responsibility, chose "provisionally" to add to the Army what the law had omitted, to wit, two Adjutants General. This being the case, neither of the eight Adjutants General had a right to demand of the Executive places of his own temporary creation. The Executive could select any one he chose to act as Adjutants General, as he had exercised the power of creating those offices. Colonel Hayne could not have been "retained" as Inspector General, because that office was abolished by law. For what purpose, then, can it be said that Colonel Hayne, Inspector at the time, was "retained" as Adjutant General? It certainly cannot be to elucidate the subject. It is evident, therefore, that the appointment of Colonel Gadsden is, in no particular, parallel with the appointment of Colonel Hayne. The latter, avowedly, was in the absence of all law on that subject, and the former, professedly, in pursuance of law. By tracing the progress of the principles for which the committee now contend, through the vicissitudes of the Revolutionary war, it will be seen that the basis of our rules for the government of the Army, was established as early as the 30th of June, 1775, and by these rules "sutlers, retainers, and other persons of the Army," (not being soldiers,) were made subject to the articles of war.

By a resolution of the 10th January, 1778, reducing the number of regiments on the continental establishment, it was directed, in order to avoid just cause of complaint, as to rank, those charged with the reduction were confined, as nearly as possible, to the military line.

By a resolution of the 27th May, 1778, it was ordained that aids-de-camp, brigade majors, and quartermasters, heretofore appointed from the line, were to hold their present rank, and be admitted again to the same, but were not to command any one who commanded them while in the line.

On the 3d of October, 1780, among other things, it was directed for the regiments to be raised; the Commander-in-chief was to direct the officers of regiments to meet and agree upon the officers for them from among those who are inclined to serve; and, when it could not be done by agreement, it was determined by seniority.

On the 22d of April, 1782, it had been found necessary to reduce the lieutenants of each regiment to ten, and, it was provided that the reduction should be made from the supernumerary junior lieutenants in each regiment.

On the 7th August, 1782, it became necessary further to arrange the Army, according to the resolutions

of the 3d and 21st October, 1780, and for this purpose it was provided that the junior regiments should be draughted to fill the senior regiments, and the Commander-in-chief should direct the officers of the line of each State to meet and agree who should command the troops so arranged; and when they could not agree, the junior officers of each grade were to retire. Under this resolution it became doubtful whether a senior officer could retire with honor, if he would; and, on the 19th November, it was by another resolution, provided that the senior officers of each grade should, under the act of the 7th August, be retained, and that the redundant junior officers of the several grades should retire; but the Commander-in-chief might permit a senior to retire. The committee appeal with veneration to this period of our military history for the correctness of the doctrines they now contend for, and cannot but mark the contrast between the principles then held sacred, and those which were introduced in the late reduction of the Army.

In the second section of the second article of the Constitution of the United States, it is provided that "the President shall have power to fill up all vacancies that may *happen* during the recess of the Senate, by granting commissions which shall expire at the end of their next session." If the offices to which Colonels Towson and Gadsden are nominated, were original vacancies, created by the act of 2d March, 1821, the committee contend that they were not filled agreeable to the provisions of the Constitution. The words "all vacancies that may *happen* during the recess of the Senate," evidently means vacancies occurring from death, resignation, promotion or removal; the word *happen* must have reference to some casualty not provided for by law. Original vacancies must mean offices created by law, and not before filled. Admitting, then, that the offices to which Colonels Towson and Gadsden are nominated, were original vacancies, created by the law to reduce the Army, the Senate was *then in session*, and these nominations were not made during that session. From whence, then, does the President derive his power to fill those offices in the recess of the Senate? Certainly, not from the Constitution, because the Senate was in session when the law passed, and the appointments were made after the adjournment of Congress; and he had no power to make them in the recess, because the vacancies did not *happen* in the recess of the Senate. The committee believe this is the fair construction of the Constitution, and the one heretofore observed. For many instances have occurred where offices have been created by law, and special power was given the President to fill those offices in the recess of the Senate; and no instance has before occurred, within the knowledge of the committee, where the President has felt himself authorized to fill such vacancies, without special authority by law. Hence, the committee conclude, from the President's own showing, that the appointments of Colonels Towson and Gadsden were not authorized either by the Constitution or law.

The committee take great pleasure in admitting the merits of these gentlemen, but believe that this consideration cannot fairly enter into the construction of the law and Constitution. But they do not admit that their claims on the country are superior to those who have been put out of their proper places in the Army, in order that these gentlemen might occupy them. And, whilst the committee forbear entering into a comparative view of the merits of all the officers illegally

Executive Proceedings.

discharged, and those put into their places, they must be permitted to say that General Bissel entered the service, as a soldier, about the year 1790, and, for his distinguished bravery at St. Clair's defeat was promoted from a sergeant to an ensign, and has risen through every rank to that of a brigadier general in the late war; and that, in every situation, he has been distinguished for his bravery and correct military conduct. Colonel Smith has lately been recommended in the warmest terms by General Brown, for the important office of Governor of Florida, and has been actually nominated by the President to the Senate for the office of judge of that territory.

The committee are of opinion, if those officers merited dismissal in the judgment of the board, the reasons for their discharge should have been stated, and the necessity of the act justified; but it cannot be correct to attribute it to the operations of the law of 1821, when the provisions of that act had no effect on the measure.

When the committee add their acknowledgment to the assertion of the merits of Colonels Towson and Gadsden, it is proper they should repel the inference that the rejection of their nominations, by the Senate, evinces a disregard of their merits, or an indifference to their just reward. Whether a suitable provision ought to be made for Colonel Towson, is not now the question. That was done by the act. By it he was left in the office of Paymaster General, a place of distinction and superior emolument. Colonel Gadsden, too, was left by the act in the office of Inspector General, in which he might have been continued, and the necessity thereby avoided of reducing Colonel Jones, who had been twice brevetted for distinguished gallantry during the late war, to the rank of captain, which he had held at its commencement.

The committee regret that there exists a difference of opinion between the President and Senate, and must express an unfeigned regret that, in the discharge of a paramount duty, they should have induced a suspicion of an arraignment of his motives, or a want of due consideration, on their part, of these nominations when first presented. The questions at issue are not of a personal or political character, in which the merits of the officers are at all concerned, but are of law and constitution.

On such questions, the President and Senate might differ, as do the highest and judicial tribunals of our country, without a suspicion of unkind feelings. With that disposition to harmony and good feelings which does, and is to be hoped always will, exist on the part of the Senate towards the Chief Magistrate of the nation, the committee have carefully examined the message of the 12th of April, 1822, and have not been able to discover any views in that message which were not presented, and duly considered, during the deliberations which occupied the serious attention of the Senate for more than two months before these nominations were rejected. However delicate the measure of sending back to the Senate nominations rejected by them; or, however liable to abuse the practice, in other times, might become, the Constitution does not prohibit the President from doing so; but, whilst it imposes no restriction on his discretion in this particular, the right belongs to the Senate to confirm or reject them. If a difference is thus produced, the Senate have no means of avoiding it, and it rests alone with the President to create or continue such collisions at his discretion. Under the foregoing views, your com-

mittee believe it to be their duty to submit to the Senate the following resolution:

Resolved, That the Senate do not advise and consent to the "re-nominations" of Colonels Towson and Gadsden.

Mr. WILLIAMS of Tennessee, communicated to the Senate the following deposition:

Deposition of General Parker.

Having been summoned before the Military Committee of the Senate of the United States, and having been required by them to state, in a deposition, the substance of my oral communication, which was made in answer to their inquiries relative to certain copies which were laid before the Secretary of War, with my letter of the 15th instant, and in relation to the reduction of the Army, conformably to general orders of the 17th of May, 1821, I, Daniel Parker, depose and state, that, soon after the passage of the act to reduce and fix the Military Peace Establishment, dated the 2d of March, 1821, I understood the Secretary of War to say, that the Executive had determined to offer me the reduced rank, pay, and emoluments, appertaining to the office of Adjutant General, in which office the same duties before performed by me, as Adjutant and Inspector General, would be required, as far as should be found consistent with the new organization; that the same clerks which had been authorized by law, for the Adjutant and Inspector General's Office, would be continued; and that the general officers to be retained would be called to this city to aid and advise in relation to some parts of the reduction. The arrangement, as it related to myself, was communicated by me, to at least one of the Generals, before their board met in April. During the session of the board, I was often ordered, by the Secretary of War, to make communications to them, and I was sometimes called on by the board for official information, between the 12th of April and the 14th of May, 1821. Their proceedings and views were not communicated to me, further than was necessary to enable me to answer inquiries. Two of the members of the board, in their individual and private capacity, as I understood, expressed to me a wish that I would take the office of Paymaster General, and that such consent on my part would promote the service, as it would facilitate the desirable arrangement of making General Atkinson Adjutant General, and Colonel Towson a colonel of artillery. I had understood General Atkinson was offered the 6th regiment, before the board met, and I stated, as well to those gentlemen, as to the Secretary of War, that several years since, when Atkinson was only Colonel, he had said to me, he would not exchange his regiment for the office of Adjutant and Inspector General, with the rank, pay, and emoluments of Brigadier General, and that, of course, I was convinced he would not now take it with reduced rank, &c. When the papers were put into my hands by the Secretary of War, directing me to make out and to publish the new Army list, as soon as practicable, I perceived that there were several contingent conditions of office, which seemed necessary to be published as explanations of the register, and those, as well as the list, were copied. On a careful reading of those recommendations, I had some doubt whether all, and what part, should be published, and was going to the Secretary of War for his further directions, in relation to them, when I was stopped at the room of the board of officers, which was then occupied by Generals Brown

Executive Proceedings.

and Gaines; General Scott, I believe, had left the city; General Brown asked for those papers, all of which, I believe, were then in my hand, and commenced destroying them. I requested his forbearance, and stated that I received them from the Secretary of War, to whom I was then carrying them. He said they had a substitute, which would be given me. I immediately reported the fact to the Secretary of War, and left the further explanation for General Brown. I afterwards received, in lieu of them, on the same day, the recommendation which was signed by General Brown, and is published with the general orders of the 17th of May, 1821. The copies of three separate papers, dated April 13, May 8, and May 11, 1821, and signed by General Brown, were first taken, under the impression that they must necessarily be published, in explanation of the new Army list. When the originals were withdrawn from me, and the one dated May 14, substituted, I retained the copies, because they related to my own official situation, in connexion with others. A transcript was taken and furnished to the Secretary of War, on a recent application, to know if I had any papers in relation to the late reduction of the Army.

If all the papers referred to were not destroyed, as I am sure part of them were by General Brown, they may perhaps be among the records and files of the late Adjutant and Inspector General's office, of which General Brown relieved me, on the 1st of June, by order of the Secretary of War, dated May 31, 1821.

The foregoing contains, briefly, all that I understood to be deemed material in my answer to the inquiries of the Committee of Senate on Military Affairs, and is, to the best of my recollection and belief, a true statement. DANIEL PARKER.

Sworn and subscribed, this 23d day of April, 1822, before me. ENOCH REYNOLDS, J. P.

[Received by the Committee after their report.]

GEORGE WASHINGTON, *President of the United States of America.*

To all who shall see these presents, greeting:

Know ye, That reposing special trust and confidence in the integrity, diligence, and ability of Caleb Swan, of Massachusetts, I have nominated, and, by and with the advice and consent of the Senate, do appoint him Paymaster of the troops of the United States, to reside with the Army; and do authorize and empower him to execute and fulfil the duties of that office according to law; and to have and to hold the said office, with all the rights and emoluments thereunto legally appertaining, unto him, the said Caleb Swan, during the pleasure of the President of the United States, for the time being.

In testimony whereof I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed. Given, under my hand, at the city of Philadelphia, this ninth day of May, in the year of our Lord one thousand seven hundred and ninety-two, and of the Independence of the United States of America the sixteenth.

GEORGE WASHINGTON.

By the President:

THOMAS JEFFERSON.

The President of the United States of America—To all who shall see these presents, greeting:

Know ye, that, reposing special trust and confidence in the patriotism, fidelity, and abilities of Rob-

ert Brent, I have nominated, and, by and with the advice and consent of the Senate, do appoint him Paymaster of the Army of the United States, in conformity to an act of Congress, passed the sixteenth day of March, one thousand eight hundred and two, entitled "An act fixing the Military Peace Establishment of the United States." This commission to continue in force during the pleasure of the President of the United States.

Given under my hand, at Washington, this first day of March, in the year of our Lord one thousand eight hundred and nine, and in the thirty-third year of the Independence of the United States.

TH. JEFFERSON.

By command of the President of the United States of America:

JOHN SMITH, *Chief Clerk,*
Acting Secretary of War.

[Received by the Committee after their report.]

The President of the United States of America—To all who shall see these presents, greeting:

Know ye, that, reposing special trust and confidence in the patriotism, valor, fidelity, and abilities, of Nathan Towson, I have nominated, and, by and with the advice and consent of the Senate, do appoint him Paymaster General of the Army in the service of the United States, to rank as such from the twenty-eighth day of August, eighteen hundred and nineteen. He is, therefore, carefully and diligently to discharge the duty of Paymaster General, by doing and performing all manner of things thereunto belonging. And I do strictly charge and require all officers and soldiers under his command to be obedient to his orders as Paymaster General. And he is to observe and follow such orders and directions, from time to time, as he shall receive from me, or the future President of the United States of America, or the General, or other superior officers set over him, according to the rules and discipline of war. This commission to continue in force during the pleasure of the President of the United States, for the time being.

Given under my hand, at the city of Washington, this eighteenth day of March, in the year of our Lord one thousand eight hundred and twenty, and in the forty-fourth year of the Independence of the United States.

JAMES MOMROE.

By the President:

J. C. CALHOUN, *Sec. of War.*

ST. LOUIS, April 6, 1821.

SIR: The letter of Colonel Wood, containing your proposition for me to accept the situation of Adjutant General, under the new organization of the Army, has been received. I have to offer you my thanks for the complimentary terms in which I am mentioned, but I must decline acceding to the proposals. I cannot go to Washington with degraded rank. The only situation, below my present grade, that I would accept of, has been offered to me by the Secretary of War; a regiment with brevet rank of Brigadier. With this I can wear out my time on a remote frontier till better times offer, when, if I merit it, I shall be rewarded. Accept my best wishes for your health and prosperity, whilst, with respect and esteem,

I am, my dear sir, your most obedient servant,

H. ATKINSON, *Brig. Gen.*

Major General BROWN,
U. S. Army, city of New York.

Executive Proceedings.

HEADQUARTERS, WASHINGTON,
April 13, 1821.

MY DEAR GENERAL: I am here, as you will perceive by the papers, for the purpose of aiding in the selection and arrangement of the officers to be retained in service, under the act of the 2d of March, reducing the Military Peace Establishment. You will have seen, also, that Generals Gaines and Scott have been retained as Brigadiers. General Macomb will, if agreeable to himself, be placed at the head of the corps of engineers, as Colonel, with his brevet rank; and it is my anxious wish that you should be arranged to the office of Adjutant General, with your brevet rank. As I am to be stationed here as General-in-Chief of the Army, it is to me a subject of deep interest to have an officer as chief of my staff, in whom I can place, and the Army and country repose the most implicit confidence. You are that officer; and if, as I believe it will, the selection should fall upon you, as a friend who has rendered you some service, permit me to claim your acceptance of this situation in my military family. It is very possible that I may be the greatest gainer by this arrangement, but it will be a part of my duty to see that you are not a loser. Admitting that your command upon the Missouri is more agreeable to your views, I should hope that you would be willing to make some sacrifice to meet my wishes, and the just expectations of the Army.

It may be proper for me to say in this place, that it appears to be a well digested and settled opinion here, that the Brigadiers are to be so arranged, that one of them will command upon the Atlantic and the other upon the Mississippi, or western frontier, including the Gulf of Mexico; and should this arrangement be made, St. Louis, or some place in that section of the country, would be the headquarters of the General commanding in the west.

I cannot close this letter without saying that it is my confirmed opinion that you can be more useful to yourself and the Army, by accepting a situation that will place you under the immediate eye of the Government, than in any other, which you can hold under the present law, and that it is your duty to accept the office of Adjutant General, if it be assigned to you.

Your friend, JACOB BROWN.

Brigadier General H. ATKINSON.

St. Louis, June 15, 1821.

DEAR SIR: I have had the honor to receive your favor of the 27th April. The same reasons that I offered in my letter of the 4th May, prevent me from accepting the situation of Adjutant General of the Army.

I regret that it is not in my power, consistently with my own interest, to oblige you in your repeated requests to take a place in your staff.

With very great respect and esteem, I have, &c.

H. ATKINSON, Brig. Gen.

Major General BROWN, Washington.

MONDAY, April 29.

MR. WILLIAMS, of Tennessee, laid on the table the following papers, which were read:

[Received by the Military Committee on the day of its date.]

DEPARTMENT OF WAR, Jan. 31, 1822.

DEAR SIR: Since I had the conversation with you, I have compared the 75th article, as printed in the

book of Regulations, with the same article in the document which was printed by the order of Congress at the last session; and it has resulted in an opinion, that the words in the book of Regulations, "except in extraordinary cases, see 63d article of war," ought not to constitute a part of the text, but are mere matters of reference, introduced by the indexing, which was done after the adoption of the regulations by Congress; and that, consequently, the whole of those words ought to have been placed in a parenthesis, the omission of which, by the printer, has caused the apparent variation.

With great respect, I am, &c.

J. C. CALHOUN.

Hon. J. WILLIAMS.

[The following, with its enclosures, received by committee four days after their report.]

WAR DEPARTMENT, April 29, 1822.

SIR: I herewith enclose a deposition of brevet Major General Scott, accompanied by a letter from the Hon. Alexander Smyth to him, which satisfactorily explains the difference between the Army regulations, as printed by the order of the War Department, under the superintendence of General Scott, and the manuscript which was laid before the House of Representatives, and printed by its order previously to the adoption of the regulations by Congress. By reference to the deposition and letter, it will be seen that the regulations printed by order of this Department accord with those adopted by Congress, though they do not, in every particular, with the volume printed by the order of the House for its consideration, previously to the adoption of the regulations by Congress; and that, in particular, article 75, in relation to transfers, is correctly printed as adopted.

I also enclose a letter from General Scott, in relation to the arrangement of General Atkinson to the place of Adjutant General, under the act making the late reduction of the Army, in which he states his reason for believing, at the time, that General Atkinson would accept of that office in preference to the command of a regiment, which had been offered him by the President, through this Department.

Although my own impression (which was communicated to the board) was, that General Atkinson would probably prefer the command of the 6th regiment to the office of Adjutant General, yet I did not believe it to be certain; particularly as I knew that the Major General, to whom the Adjutant was immediately attached, took a deep interest in his acceptance of that office, and would use his personal influence with him to its full extent, to induce him to accept.

Very respectfully, your obedient servant,

J. C. CALHOUN.

Hon. J. WILLIAMS,

Chairman Committee on Military Affairs.

SIR: I accidentally omitted to enclose the letter of General Scott, to which I referred in mine of this morning. I now enclose it.

Very respectfully, I am, &c.

J. C. CALHOUN.

Colonel WILLIAMS.

WASHINGTON CITY, April 28, 1822.

SIR: I proceed to state what I recollect concerning the corrections made by you in the System of Field Service and Police, adopted by Congress at their last session for the Army of the United States.

As chairman of the Committee of Military Affairs

Executive Proceedings.

in the House of Representatives, I received two printed copies, corrected by you, of the System. The first I received directly from you, as I believe; the second through the War Department, or the office of the Adjutant and Inspector General, which I understood to have your final corrections. This last was the copy which I intended that the regulations should be printed from; and I am very confident that, for that purpose, I deposited it with the Clerk of the House of Representatives. It is also impressed on my mind that I wrote either to the Secretary of War, or yourself, referring to that copy as the one from which the Regulations ought to be printed.

It is not in my power to say in what the copy which I suppose to have been deposited by the Clerk, differed from the copies which were printed for the use of the members of Congress. There were corrections of errors of the press, verbal alterations, and some additions in the first copy; and I believe still more of the latter in the second copy, which was that deposited with Mr. Dougherty. Very respectfully, &c.

ALEX'R SMYTH.

Major General SCOTT,
Washington City.

WASHINGTON, April 27, 1822.

In compliance with your request, I will state, to the best of my memory and belief, the material circumstances known to me, relative to the recommendation of brevet Brigadier General Atkinson, for the office of Adjutant General, made by the board of general officers, of which I was a member, assembled for the purpose of assisting in the late reduction of the Army.

It is not deemed material for me to say what were my own wishes or opinion on that recommendation, though I am free to declare that I entertain for General Atkinson the greatest respect as an officer, and hold him in the closest esteem as a man.

On taking a view of the whole Army list, and the general effect of the impending reduction, it very early occurred to the board, (I mean, at least, a majority thereof, either including or excluding myself individually,) that it would be desirable, in order to save the greatest number of valuable officers for the service, generally, to retain General Atkinson as Adjutant General. Before, however, any decision was taken on the question, I understood from General Brown that he had written to General Atkinson, intimating what would probably be done by the board relative to the latter; and, afterwards, when the arrangement had been definitively made in that case, and in the others of importance connected therewith, I learnt from General Brown that he had received a letter from General Atkinson, expressing a preference for his then situation, and a desire to be continued in it, with the reduced rank of colonel of the 6th infantry, and the brevet of brigadier of the Army. Now there was an official letter of General Atkinson, addressed to the War Department, before the board at that time, in which it was distinctly seen what was his meaning as to "his then situation," (for he was already advised, at the time of writing the letter, of his reduction to the rank of Colonel,) viz: the command of a department, with, of course, the pay and emoluments of his brevet rank. But, understanding from you that he could not be continued in that command; that is, that you would be obliged, under the law, to have but two great departments, for myself and General Gaines, the board concluded that when General Atkinson should become acquainted with that decision, (of which he was then

ignorant,) he would prefer the office of Adjutant General to the immediate and sole command of the 6th regiment; particularly, as all the difficulties in making the establishment at the Council Bluffs had been already overcome, and there was no longer room for activity or enterprise in that quarter. I feel myself at liberty to say, that this was my own opinion, and appeared to be that of the other members of the board, down to the period of my leaving Washington to attend to other duties. I, however, never saw General Atkinson's letter to General Brown, nor do I know that it was shown to either yourself or General Gaines. I am confident it was not laid before the board. There were other considerations which contributed to the persuasion last expressed above; such as General Brown's declared intention to write a second time to urge General A. to accept; to inform him of the important contingencies which would depend on his decision, &c. I was, at the time in question, not unacquainted with the opinion entertained by my friend General Parker on this subject, and the reasons on which it was founded; but, nevertheless, confidently expected a different result.

I have the honor to be, &c.

WINFIELD SCOTT.

Hon. J. C. CALHOUN,
Secretary of War.

Deposition of Major General Scott.

The deponent saith, he was, some time in March 1821, employed by the War Department, to superintend, at Philadelphia, the printing of the book entitled "General Regulations for the Army;" that he, accordingly, carefully examined the *proof-sheets* as they successively came from the press. That the articles of the book which had then been recently approved by Congress, were reprinted with the most perfect good faith. That no alteration was, after the 2d of March, 1821, made in either of those particular articles, except in some very few instances, wherein a word was substituted for another, merely with a view to grammatical accuracy, without changing a principle; and, excepting also, some slight changes in article 38, ("organization of departments,") such as striking out "Major General of the division;" striking out "assistant" before the words "Inspector General," &c., which changes were, in the opinion of the editor and compiler, (this deponent,) rendered necessary by the very act that approved the article; the act giving to the Army, in those particulars, a *new* organization.

It remains for the deponent to explain other variations between the articles of the book first printed at Washington, by order of the House of Representatives, and the same articles reprinted at Philadelphia. The first printing was early in January, 1821; and the book was not sanctioned till the 2d of March following. Very early in this interval, the deponent received several copies from the press of the public printer. On reading over one of them at Philadelphia, he discovered, besides typographical errors, (of which there were many,) that some of the articles of the book did not perfectly harmonize with others. That certain principles laid down, required a greater development for practical purposes; and feeling much anxiety, in his capacity of compiler, for the literary and professional merits of the work, he immediately employed himself in correcting those errors and defects, which were more readily perceived in the *printed* shape the articles had then assumed. Having corrected, with *red ink*, two of the printed copies, so as to

Executive Proceedings.

render them exact duplicates, this deponent retained one in his own possession, and sent the other through the War Department, (some time in February, certainly many weeks before the 2d of March, 1821,) with a request that it might be laid before the Military Committee of the House, and accepted as the copy to be approved. This was accordingly done, as the deponent is again advised by the chairman of that committee, who is still a member of that House, and the deponent avers, that the duplicate retained by him, was the copy from which the articles approved by Congress were reprinted, as above stated.

In respect to article 75, ("Transfers") one of those altered or recast, in February, as he verily believes, and transmitted as above, the deponent solemnly avers, that he received from no person whatever, any suggestion to make an alteration therein; that its present *verbal* shape was given to it, on his own mere motion, without a view to any particular case then foreseen; that, in his humble opinion, the principles embraced in the article are professionally sound, right, and proper; that the words "except in extraordinary cases," inserted by him, were borrowed from the article on promotions, (see article 4, paragraph 1, which regulation is at least as old, in our service, as 1813) where the same words will be found; giving to the Executive, in an analogous case, a greater power than he can exercise under the article on transfers, even as it at present stands; that the reference in the last mentioned articles, to be found in these words—"see 63d article of war," was merely editorial, and not intended to make part of the text; but simply to assist the reader, (as in numerous other places in the book) to find kindred legislation on the same subject.

The custom of printers in cutting up copy, into leaves, it is presumed, is well understood. These detached leaves are sent by the printer, from time to time, and in parcels, with proof-sheets of the new impression, for the correction of the latter, by the superintendent of the press, who, in the instance in question, was the deponent; the proof-sheets being verified are then returned to the printer with the original copy. The deponent has recently caused a search to be made for the original copy printed from, in this case; but has only found one or two detached leaves, among his own papers, probably left by accident, and nothing among the printers' papers. By him, after the new book was out of the press, those leaves were considered as mere waste paper, as is believed to be usual in such cases. The leaves found by the deponent, contain no part of article 75, or any other that was altered between the first and second impression.

WINFIELD SCOTT.

Sworn and subscribed before me, one of the justices of the peace for Washington county, in the District of Columbia, this 29th day of April, 1822.

T. H. GILLISS.

The Senate proceeded to consider the message of the 12th of April, nominating Nathan Towson and James Gadsden to military appointments, together with the report of the Military Committee thereupon.

On the question "Will the Senate advise and consent to the appointment of Nathan Towson to be Colonel of the second regiment of artillery?" it was determined in the negative—yeas 17, nays 25, as follows:

YEAS—Messrs. Barbour, Brown of Louisiana,

Brown of Ohio, Eaton, Edwards, Findlay, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Knight, Lanman, Parrott, Rodney, Southard, Stokes, and Talbot.

NAYS—Messrs. Barton, Benton, Chandler, Dickerson, Gaillard, Holmes of Maine, King of New York, Lloyd, Lowrie, Macon, Morril, Noble, Palmer, Pleasants, Ruggles, Seymour, Smith, Taylor, Thomas, Van Buren, Van Dyke, Walker, Ware, Williams of Mississippi, and Williams of Tennessee.

On the question "Will the Senate advise and consent to the appointment of James Gadsden to be Adjutant General?" it was determined in the negative—yeas 17, nays 25, as follows:

YEAS—Messrs. Barbour, Brown of Louisiana, Brown of Ohio, Eaton, Edwards, Findlay, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Knight, Lanman, Parrott, Rodney, Southard, Stokes, and Williams of Mississippi.

NAYS—Messrs. Barton, Benton, Chandler, Dickerson, Gaillard, Holmes of Maine, King of New York, Lloyd, Lowrie, Macon, Morril, Noble, Palmer, Pleasants, Ruggles, Seymour, Smith, Talbot, Taylor, Thomas, Van Buren, Van Dyke, Walker, Ware, and Williams of Tennessee.

So it was resolved, that the Senate do not advise and consent to the appointment of Nathan Towson and James Gadsden.

TUESDAY, April 30.

Mr. WILLIAMS, of Tennessee, communicated the following paper, which was read:

APRIL 30 1822.

I certify that I was one of the Committee on Military Affairs, during the last session of Congress, and punctually attended each meeting of the committee, and frequently acted as chairman, in the absence of Gen. A. Smyth, who declined attending the committee, after it was determined by them to reduce the army. At an early period of the session, the regulations for the government of the army, compiled by General Scott, were referred to said committee. The House of Representatives had them printed. I further certify that no other, or corrected copy, was submitted to the examination, or received the approbation, of the committee. I am confirmed in this opinion from the fact, that Gen. Smyth did not attend at any meeting of the committee after the bill was reported to reduce and fix the Military Peace Establishment of the United States, until that bill had passed the House, and was returned by the Senate with amendments. This bill was referred to the Committee on Military Affairs, and when under examination, Gen. Smith attended. The particular subject of their consideration was, whether a major general and two brigadier generals, with their aids, should be retained in service. If the book of regulations was mentioned, I have not the least recollection of it, and my belief is, it was not; I am sure no corrected copy of the work was.

JOHN COCKE.

WASHINGTON, April 30, 1822.

We, the subscribers, were members of the Military Committee in the Winter of 1821, and usually attended the meetings of said committee, and agree that the foregoing statement of facts by General Cocke is correct, according to our best recollection and belief.

JOSHUA CUSHMAN.

JOHN RUSS.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE FIRST SESSION OF THE SEVENTEENTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, MONDAY, DECEMBER 3, 1821.

MONDAY, December 3, 1821.

At 12 o'clock, the Clerk of the House of Representatives, Mr. THOMAS DOUGHERTY, took his place, and called the roll of the members, pursuant to usage. Whereupon, the following gentlemen answered to their names:

From New Hampshire—Josiah Butler, Matthew Harvey, William Plumer, jr., Nathaniel Upham, and Thomas Whipple, jr.

From Massachusetts—Samuel C. Allen, Gideon Barstow, Francis Baylies, Lewis Bigelow, Henry W. Dwight, William Eustis, Timothy Fuller, Benjamin Gorham, Aaron Hobart, Jeremiah Nelson, John Reed, and Jonathan Russell.

From Rhode Island—Job Durfee, Samuel Eddy.

From Connecticut—Noyes Barber, Daniel Burrows, Henry W. Edwards, and Gideon Tomlinson.

From Vermont—Samuel C. Crafts, Elias Keys, Rollin C. Mallary, John Mattocks, Charles Rich, and Phineas White.

From New York—Charles Borland, jr., Churchill C. Cambreleng, Samuel Campbell, Alfred Conkling, John D. Dickinson, John Gebhard, James Hawks, Thomas H. Hubbard, Joseph Kirkland, Elisha Litchfield, Richard McCarty, John J. Morgan, Walter Patterson, Jeremiah H. Pierson, Nathaniel Pitcher, William B. Rochester, Elijah Spencer, John W. Taylor, Albert H. Tracy, Solomon Van Rensselaer, William W. Van Wyck, Reuben H. Walworth, Silas Wood, and David Woodcock.

From New Jersey—Ephraim Bateman, George Cassey, Lewis Condict, George Holcombe, James Matlack, and Samuel Swan.

From Pennsylvania—Henry Baldwin, John Brown, James Buchanan, William Darlington, George Denison, Patrick Farrelly, Samuel Gross, Joseph Hemphill, James McSherry, William Milnor, James S. Mitchell, Samuel Moore, Thomas Murray, Thomas Patterson, John Phillips, George Plumer, Thomas J. Rogers, John Sergeant, John Tod, and Ludwig Worman.

From Delaware—Louis McLane, and Cæsar A. Rodney.

From Maryland—Jeremiah Causden, Joseph Kent, Peter Little, John Nelson, Samuel Smith, Henry R. Warfield, and Robert Wright.

From Virginia—Mark Alexander, William S. Ar-

cher, William L. Ball, Philip P. Barbour, Burwell Bassett, John Floyd, Robert S. Garnett, Jabez Leftwich, William McCoy, Charles F. Mercer, Thomas L. Moore, Hugh Nelson, Thomas Newton, Arthur Smith, William Smith, Alexander Smyth, Andrew Stevenson, George Tucker, and Jared Williams.

From North Carolina—Hutchings G. Burton, Henry Conner, Josiah Crudup, Weldon N. Edwards, Charles Hooks, John Long, Archibald McNeill, Romulus M. Sanders, Lemuel Sawyer, Lewis Williams.

From South Carolina—James Blair, Joseph Gist, George McDuffee, Thomas R. Mitchell, James Overstreet, Joel R. Poinsett, Starling Tucker, and John Wilson.

From Georgia—Joel Abbot, George R. Gilmer, Edward F. Tatnall, and Wiley Thompson.

From Kentucky—Benjamin Hardin, Francis Johnson, John T. Johnson, Thomas Metcalfe, Thomas Montgomery, Anthony New, John Speed Smith, David Trimble, and Samuel H. Woodson.

From Tennessee—Robert Allen, Newton Cannon, John Cocke, Francis Jones, and John Rhea.

From Ohio—Levi Barber, John W. Campbell, David Chambers, Thomas R. Ross, and Joseph Vance.

From Louisiana—Josiah Stoddard Johnston.

From Indiana—William Hendricks.

From Mississippi—Christopher Rankin.

From Illinois—Daniel P. Cook.

From Alabama—Gabriel Moore.

From Maine—Joshua Cushman, Joseph Dane, Ebenezer Herrick, Mark L. Hill, and Enoch Lincoln.

From Missouri—John Scott.

From Michigan Territory—Solomon Sibley, Delegate.

A large majority of the members being present, the Clerk pronounced that a quorum was assembled for the transaction of business.

BALLOTING FOR SPEAKER.

On motion, the House then proceeded to the choice of a SPEAKER.

Messrs. NEWTON, of Virginia, and NELSON, of Massachusetts, were appointed tellers, who declared the vote on the first ballot to stand as follows: Whole number of votes 161; necessary to a choice 81.

H. OF R.

Election of Speaker.

DECEMBER, 1821.

Of the whole number, there were—

For J. W. Taylor, of New York	-	60
C. A. Rodney, of Delaware	-	45
Louis McLane, of Delaware	-	29
Samuel Smith, of Maryland	-	20
H. Nelson, of Virginia	-	5
Scattering	-	2

161—no choice.

The House thereupon proceeded to a second ballot, when the following result was declared:

For C. A. Rodney	-	60
J. W. Taylor	-	58
L. McLane	-	31
Samuel Smith	-	10
Scattering	-	2

161—no choice.

On the third ballot, the votes were declared by the senior teller to stand as follows:

For J. W. Taylor	-	61
C. A. Rodney	-	61
L. McLane	-	30
S. Smith	-	5
H. Nelson	-	2

159—no choice.

A fourth ballot having been taken, the following result was declared:

For C. A. Rodney	-	69
J. W. Taylor	-	60
L. McLane	-	23
S. Smith	-	8

160—no choice.

The fifth ballot presented the following result:

For C. A. Rodney	-	72
J. W. Taylor	-	67
L. McLane	-	16
S. Smith	-	10

165—no choice.

Mr. CANNON, of Tennessee, thereupon moved to adjourn; which motion was *negatived*.

The House then proceeded to a sixth ballot, when the votes were declared as follows:

For J. W. Taylor	-	72
C. A. Rodney	-	65
L. McLane	-	8
S. Smith	-	19

164—no choice.

On the seventh ballot the result was declared, as follows:

For J. W. Taylor	-	77
C. A. Rodney	-	59
S. Smith	-	26

162—no choice.

On motion of Mr. ROGERS, of Pennsylvania, the House then adjourned.

TUESDAY, December 2.

Several other members, to wit: from Massachusetts, SAMUEL LATHROP; from Pennsylvania,

ANDREW STEWART; from Maryland, RAPHAEL NEALE; from Virginia, THOMAS VAN SWEARINGEN and EDWARD B. JACKSON; from Ohio, JOHN SLOAN; and from Maine, EZEKIEL WHITMAN, appeared, and took their seats.

ELECTION OF SPEAKER.

The House then resumed the business of yesterday, by proceeding to an eighth ballot for the choice of a Speaker, when the following result was declared: Whole number of votes 172. Necessary to a choice 87. Of the whole number, there were—

For John W. Taylor of New York	64
C. A. Rodney of Delaware	36
P. P. Barbour of Virginia	35
Samuel Smith of Maryland	25
Scattering	12

172—no choice.

On the ninth ballot, the votes were as follows: Whole number of votes 173. Necessary to a choice 87. Of the whole number of votes there were—

For J. W. Taylor	-	69
P. P. Barbour	-	64
Samuel Smith	-	18
C. A. Rodney	-	15
Henry Baldwin	-	4
Scattering	-	3

172—no choice.

On the tenth ballot, the votes were as follows: Whole number of votes 174. Necessary to a choice 88. Of the whole number, there were—

For P. P. Barbour	-	83
J. W. Taylor	-	70
Samuel Smith	-	10
C. A. Rodney	-	4
H. Baldwin	-	3
L. McLane	-	2
Scattering	-	2

174—no choice.

The eleventh ballot presented the following result: Whole number of votes 173. Necessary to a choice 87. Of the whole number, there were—

For P. P. Barbour	-	85
J. W. Taylor	-	68
Samuel Smith	-	6
C. A. Rodney	-	5
H. Baldwin	-	4
Scattering	-	5

173—no choice.

The twelfth ballot resulted as follows: Whole number of votes 172. Necessary to a choice 87. Of the whole number, there were—

For P. P. Barbour	-	88
J. W. Taylor	-	67
H. Baldwin	-	6
S. Smith	-	4
C. A. Rodney	-	3
Scattering	-	4

This result having been reported by the Tellers,

DECEMBER, 1821.

Clerk and Doorkeeper—Standing Committees.

H. OF R.

the Clerk pronounced, accordingly, that PHILIP P. BARBOUR, one of the Representatives of the State of Virginia, having received a majority of the whole number of votes, was duly elected Speaker of this House.

Mr. BARBOUR was conducted to the Chair, accordingly, by Mr. NELSON, of Virginia, and Mr. WARFIELD, of Maryland, and the Oath of Office was administered to him by Mr. WRIGHT, of Maryland.

Mr. SPEAKER then rose and addressed the House as follows:

Gentlemen of the House of Representatives:

I should do injustice to myself, if I did not express to you the warm feelings of gratitude which have been excited in my bosom by the appointment which you have just conferred upon me. Those feelings are produced, not only by the consideration that this mark of your confidence is a distinguished one, but by the further consideration that it is unexpected as it is distinguished. In accepting the office to which you have thus called me, I speak in the most perfect sincerity of my heart when I assure you that I feel a fearful apprehension in relation to my ability to discharge its duties in a manner equal either to my own wishes or your expectations. I am sensible of the arduousness of the task; I am sensible, too, of my own want of experience. One thing, however, I can with safety promise: it is, that whatever can be done by diligent attention, and by an unceasing application of such capacity as I possess, shall be done. As it respects myself, the only hope which I entertain that I shall, in any tolerable degree, acquit myself of the responsibility which I am about to assume, rests upon a consciousness, that it will be my constant endeavor so to do; but my great reliance is on the support of this House, and its knowledge that the preservation of order is indispensably necessary to give dignity to the proceedings of any deliberative body.

After which, the SPEAKER administered to the members present, severally, the oath to support the Constitution of the United States.

CLERK AND DOORKEEPER.

Mr. WOOD, of New York, moved to dispense with the form of choosing a Clerk by ballot, and appoint that officer by motion.—Carried.

Mr. WRIGHT, of Maryland, moved that Thomas Dougherty be appointed to the office of Clerk of the House of Representatives; and the motion was thereupon agreed to *nem. con.*, and Mr. Dougherty was sworn into office accordingly.

Mr. WRIGHT moved that the Clerk be directed to communicate the usual message to the Senate.—Carried.

On motion of Mr. WRIGHT, the form of voting by ballot was dispensed with in regard to the office of Sergeant-at-Arms, and Thomas Dunn appointed to that office on nomination.

The same course prevailed in relation to the appointment of Doorkeeper, and Benjamin Burch was thereupon appointed.

Mr. WRIGHT made a motion to proceed to the appointment of an Assistant Doorkeeper, and nominated a citizen for that office.

Mr. WOOD presumed that the same spirit of economy would prevail in this Congress as had

distinguished the last. He doubted whether any necessity existed for the appointment of Assistant Doorkeeper, and that he regarded as a preliminary question. The Sergeant-at-Arms and the Doorkeeper had, during the last session, performed almost exclusively the duties appertaining to that office; but were it determined that an Assistant was necessary, still he was unprepared to decide upon the nomination, as several applications had been made, and he wished for time and opportunity to ascertain the comparative merits of each. He wished for delay, and with this view, that the subject might be postponed to a day certain, or else indefinitely.

After some further desultory remarks on the subject, the further consideration thereof was, on motion of Mr. WRIGHT, postponed until Tuesday next.

Mr. HILL, of Maine, moved that a committee be appointed to wait on the President of the United States, and inform him of the organization of the House, &c.; which motion was agreed to.

On motion of Mr. WRIGHT, it was ordered that the rules and orders of the last Congress be observed by the present, until a revision or alteration of the same be made, and, on his further motion, the usual rule with respect to the supply of newspapers for the members was prescribed.

A motion was made by Mr. RHEA, that the House do now proceed to the appointment of the several standing committees; whereupon, the House adjourned.

WEDNESDAY, December 5.

A message from the Senate informed the House that the Senate have assembled and are ready to proceed to business. They have passed a resolution for the appointment of a committee on their part, to join such committee as may be appointed on the part of this House, to wait on the President of the United States, and inform him that a quorum of the two Houses have assembled, and are ready to receive any communications he may be pleased to make to them; in which resolution they request the concurrence of this House.

The resolution was read and concurred in by the House; and Mr. HILL and Mr. TRIMBLE were appointed of the said committee on the part of the House.

STANDING COMMITTEES.

The House proceeded to consider the motion depending yesterday at the time of adjournment, for the appointment of the standing committees; and the question being taken to agree thereto, it passed in the affirmative.

Whereupon, the following Committees were appointed.

Committee of Elections.—Mr. Sloan, Mr. Edwards of North Carolina, Mr. Tucker of South Carolina, Mr. Moore of Virginia, Mr. Walworth, Mr. Rogers, and Mr. Smith of Kentucky.

Committee of Ways and Means.—Mr. Smith of Maryland, Mr. Tod, Mr. Pitcher, Mr. Mitchell of South Carolina, Mr. Jones of Tennessee, Mr. Thompson, and Mr. Stevenson.

H. OF R.

Apportionment of Representatives.

DECEMBER, 1821.

Committee of Claims.—Mr. Williams of North Carolina, Mr. Rich, Mr. McCoy, Mr. Moore of Pennsylvania, Mr. Edwards of Connecticut, Mr. Metcalfe, and Mr. Litchfield.

Committee of Commerce.—Mr. Newton, Mr. Tomlinson, Mr. Hill, Mr. Milnor, Mr. Kirkland, Mr. Abbot, and Mr. McDuffie.

Committee on the Public Lands.—Mr. Rankin, Mr. Scott, Mr. Hendricks, Mr. Cook, Mr. Stewart, Mr. Cannon, and Mr. Sterling of New York.

Committee on the Post Office and Post Roads.—Mr. Francis Johnson, Mr. Hooks, Mr. Gross, Mr. Stoddard, Mr. Campbell of New York, Mr. Bate-man, and Mr. Overstreet.

Committee on the District of Columbia.—Mr. Kent, Mr. Mercer, Mr. Neale, Mr. Matlack, Mr. Pat-terson of Pennsylvania, Mr. Rochester, and Mr. Mallary.

Committee on the Judiciary.—Mr. Sergeant, Mr. Plumer of New Hampshire, Mr. Dickinson, Mr. Nelson of Virginia, Mr. Burton, Mr. Sanders, and Mr. Johnson of Louisiana.

Committee on Pensions and Revolutionary Claims.—Mr. Rhea, Mr. Little, Mr. Eddy, Mr. New, Mr. Allen of Tennessee, Mr. William Smith, and Mr. Hubbard.

Committee on Public Expenditures.—Mr. Montgom-ery, Mr. Dwight, Mr. Crafts, Mr. Gebhard, Mr. Gist, Mr. Barber of Ohio, and Mr. Tatnall.

Committee on Private Land Claims.—Mr. Camp-bell of Ohio, Mr. Conkling, Mr. Moore of Ala-bama, Mr. Whitman, Mr. Upham, Mr. Sterling, of Connecticut, and Mr. Crudup.

Committee on Manufactures.—Mr. Baldwin, Mr. Woodson, Mr. Durfee, Mr. Floyd, Mr. Conner, Mr. Nelson of Maryland, and Mr. Condict.

Committee on Agriculture.—Mr. Butler, Mr. Bay-ard, Mr. Garnett, Mr. Buchanan, Mr. McNiell, Mr. Vance, and Mr. Blair.

Committee of Revisal and Unfinished Business.—Mr. Lathrop, Mr. Burrows, and Mr. Ross.

Committee of Accounts.—Mr. Allen of Massachu-setts, Mr. Swan, and Mr. Ruggles.

Committee on the Expenditures in the Department of State.—Mr. Wood, Mr. Alexander, and Mr. Bar-ber of Connecticut.

Committee on Expenditures in the Treasury Depart-ment.—Mr. Tracy, Mr. Keyes, and Mr. Holcombe.

Committee on the Expenditures in the Department of War.—Mr. Tucker of Virginia, Mr. Chambers, and Mr. Lincoln.

Committee on the Expenditures in the Navy Depart-ment.—Mr. Edwards of Pennsylvania, Mr. Pat-terson of New York, and Mr. White.

Committee on the Expenditures in the Post Office.—Mr. Denison, Mr. Woodcock, and Mr. Sawyer.

Committee on the Expenditures on the Public Build-ings.—Mr. Nelson, of Massachusetts, Mr. Pierson, and Mr. Leftwich.

On motion of Mr. WRIGHT, it was resolved that this House will, on Monday next, at twelve o'clock, proceed to the election of a Chaplain to Congress on their part.

Mr. HILL, from the Committee appointed to wait on the President of the United States, reported that they had performed the duty assigned them,

and that the President would communicate to this House by Message this day.

Mr. RHEA, of Tennessee, moved that the sub-ject of Revolutionary Pensions be referred to a select committee.

Mr. ALEXANDER, of Virginia, hoped the mover would consent that the resolution, for the present, lie on the table. He (Mr. A.) was not aware that a continuance of that committee was necessary. Should new cases arise, requiring such reference, it would, doubtless, be in the power of the gentle-man from Tennessee to obtain it.

Mr. RHEA assented to the suggestion, and the resolution was ordered to lie on the table.

A communication was received from the Presi-dent of the United States, by Mr. Gouverneur, his Secretary, which he delivered in at the Speaker's table, and withdrew.

The communication was read, and, together with the documents accompanying the same, re-ferred to a Committee of the Whole House on the state of the Union; and five thousand copies there-of were ordered to be printed. [For this Message, see *Senate Proceedings* of this date, ante page 11.]

After the Message was read, the House adjourned.

THURSDAY, December 6.

JAMES WOODSON BATES, appeared, produced his credentials, was qualified, and took his seat, as the delegate from the Territory of Arkansas.

Mr. TAYLOR presented the official certificate of the election of the Representatives of the State of New York in the Seventeenth Congress of the United States, which had been enclosed to him as Speaker of the late House of Representatives.

Mr. WOOD presented a memorial of Cadwalla-der D. Colden, contesting the election of Peter Sharpe, returned to serve as a member of this House for the State of New York, and praying to be admitted to a seat in the place of said Sharpe, having, as he alleges, obtained a majority of votes given in at the election.

Mr. WRIGHT presented a memorial of Philip Reed, contesting the election of Jeremiah Causden, returned to serve as a member of this House for the State of Maryland, and praying to be admitted to a seat in the place of the said Causden, for rea-sons set forth in said memorial.

The certificate and memorials were referred to the Committee of Elections.

On motion of Mr. RANKIN, the Committee on the Judiciary were instructed to inquire into the expediency of altering the time and place of hold-ing the District Court of the United States in the District of Mississippi.

APPORTIONMENT OF REPRESENTATION.

Mr. CAMPBELL moved the following resolution:

Resolved, That a committee be appointed to report a bill providing for the apportionment of representa-tives among the several States, according to the fourth census.

Mr. C. was desirous that the subject be taken up at an early period of the session, in order that the principle on which the apportionment should

DECEMBER, 1821.

Direct Taxes—Reference of President's Message.

H. OF R.

be based, should be fully examined and deliberately settled. The Legislatures of several of the States, he remarked, were now in session, and it might be important that the subject come before them at an early day, to enable them to district the States pursuant to the act providing for the apportionment, without incurring the delay and expense of convoking the several Legislatures for that express object. He thought the census had been so far accomplished as to enable the committee that should be appointed, to enter immediately upon the consideration of the subject.

Mr. COCKE, of Tennessee, moved that the resolution lie on the table.

Further remarks were made on the subject by Messrs. COCKE, WRIGHT, and MCCOY; when the question was taken on the motion of Mr. COCKE and carried—ayes 74, nays 47.

On motion of Mr. COOK, the Committee on the Public Lands were instructed to inquire into the expediency of extending the provisions of the first section of the act of the 2d of March last, entitled "An act for the relief of the purchasers of the public lands prior to the first day of July, 1820," to the 30th of September, 1822.

LANDS SOLD FOR DIRECT TAXES.

Mr. LATHROP submitted the following motion:

Resolved, That the Committee on Revisal and Unfinished Business be instructed to consider the expediency of reviving and continuing in force, for a limited time, an act passed the 11th May, 1820, "extending the time allowed for the redemption of land sold for direct taxes, in certain cases," or of otherwise granting relief to the owners of the land where it has been purchased on behalf of the United States.

Mr. WOOD suggested, that the motion of the gentleman from Massachusetts (Mr. LATHROP) was not perhaps sufficiently broad to cover the object in view. His (Mr. W.'s) attention had been drawn to the subject, and he had draughted the following motion, intending to have himself proposed it:

Resolved, That the expediency of extending the time for the redemption of lands sold for the direct tax, under the several acts passed August 2, 1813, January 9th, 1815, and March 5, 1816, and which have been purchased on behalf of the United States, be referred to the Committee of Ways and Means.

Mr. W. hoped that both would be laid on the table for inspection and consideration.

Mr. LATHROP assented, and the resolutions were respectively ordered to lie on the table.

PRESIDENT'S MESSAGE.

Mr. SAWYER moved that the House do now resolve itself into a Committee of the Whole on the state of the Union, for the purpose of taking into consideration the President's Message.

Mr. WRIGHT moved that the consideration thereof be postponed until to-morrow; which motion was negatived, and Mr. SAWYER's motion prevailed.

Mr. TAYLOR, of New York, was called to the Chair.

Mr. WOOD presented the following resolutions:

Resolved, That so much of the President's Message as relates to the commercial intercourse with Great Britain, France, Portugal, and Norway, their dominions or colonies, be referred to the Committee of Commerce.

Resolved, That so much of the President's Message as relates to the construction of the eighth article of the treaty of 1803, whereby Louisiana was ceded to the United States; to the seizure of the Apollo, in 1820; to inexecution of the treaty of 1819, with Spain; to the renewal of diplomatic intercourse with Portugal, and to all other subjects of Foreign Affairs, be referred to a select committee.

Resolved, That so much of the President's Message as relates to the organization of a more regular government for the Territory of Florida, be referred to a select committee.

Resolved, That so much of the President's Message as relates to the survey of the coast, the navy, navy-yards, and naval affairs; the protection of our commerce, and to the slave trade, be referred to a select committee.

Resolved, That so much of the President's Message as relates to the revision of the Tariff, and to Manufactures, be referred to the Committee on Manufactures.

Resolved, That so much of the President's Message as relates to the subject of Revenue, be referred to the Committee of Ways and Means.

Resolved, That the said Committees consist of — each, and have leave to report by bill or otherwise.

Some discussion took place on the first resolution submitted by Mr. WOOD, in which the mover and Messrs. WRIGHT, SERGEANT, and LITTLE, took part; when, on motion, the Committee rose; and, on motion of the latter, the aforesaid resolutions were ordered to be printed.

SUBJECTS REFERRED TO COMMITTEES.

Mr. WOOD submitted the following resolutions:

Resolved, That the subject of the marine and navy hospital funds, and the provision for sick and disabled seamen, be referred to the Committee of Commerce.

Resolved, That the subject of the duties and compensation of the persons employed in the collection of the revenue arising from imports and tonnage, be referred to the Committee of Ways and Means.

Resolved, That the subject of intercourse with the Indians by agents, factors, traders, trading-houses, and otherwise, be referred to a select committee.

Resolved, That the laws and regulations of the Post Office Establishment be referred to the Committee on Post Offices and Post Roads.

Resolved, That the subject of the compensation of marshals, clerks, and attorneys, in the courts of the United States, be referred to the Committee on the Judiciary.

Resolved, That the laws and regulations relative to certain persons engaged in the land and naval service of the United States during the Revolutionary war be referred to a select committee.

Resolved, That the subject of the Mint establishment, the coins of the United States and foreign coins, be referred to a select committee.

Resolved, That the subject of the public buildings and the public lands in the city of Washington be referred to a select committee.

Resolved, That the subject of the public armories, arsenals, and the munitions of war belonging to the

H. OF R.

Revolutionary Pensions.

DECEMBER, 1821.

United States, be referred to the Committee on Fortifications and Military Affairs.

Resolved, that the said Committees consist of — each, and have leave to report by bill or otherwise.

On motion, it was ordered that the same be printed, and lie on the table.

REVOLUTIONARY PENSIONS.

Mr. RHEA called for the consideration of the resolution which he had yesterday proposed, for the appointment of a select committee on the subject of Revolutionary pensions.

The House agreed to consider the same—ayes 57, noes 54.

Mr. RHEA enforced, in a few remarks, the propriety of the resolution which he had offered. It would be recollected, he observed, particularly by those members of the House who were of the last Congress, that a similar committee had been then appointed, at the head of which was a very respectable gentleman now absent. In the course of their duties, cases had arisen that were not properly within the sphere and jurisdiction of the committee most nearly allied to that which it was his present object to raise. These cases it was not only incompetent, but impossible for them to hear and determine; and the result was, that they would probably be again presented, and come orderly, as he hoped, before a committee that should have proper powers to decide upon them according to their respective merits.

Mr. TAYLOR, of New York, regretted to differ in opinion from his worthy friend from Tennessee; but he thought that the experience of the House had been such as would lead to a result adverse to the motion. During the last year, it would be remembered, there was a continued conflict of jurisdiction between the standing and select committees. The former committee, from time to time, moved to be discharged from the further consideration of cases, which the latter deemed it their province to sustain. By referring to the duties of the standing committee, it would seem to be no great or unwarrantable assumption of jurisdiction to exercise over all those cases which it would seem to be the object to refer to the select committee. It is made "the duty of said Committee 'on Pensions and Revolutionary Claims to take into consideration all such petitions and matter 'or things touching military pensions, and also 'claims and demands originating in the Revolutionary war, or arising therefrom, as shall be presented, or shall or may come in question, and be 'referred to them by the House, and to report their 'opinion thereupon." This seems to give them jurisdiction in all cases that have arisen, or may arise, out of the act of 1818—and that act, it will be noted, grew out of a recommendation of the Executive in 1817, which led to the appointment of a select committee on the subject. Mr. T. concurred in opinion with the honorable gentleman from Virginia, (Mr. ALEXANDER,) as expressed yesterday, that it was to be hoped and presumed that the time had arrived in which no necessity existed for the appointment of an additional committee. And he felt peculiar confidence on this subject, from

the knowledge which he possessed, in common with this House and the country, of the industry and ability with which the chair of that committee was filled, and the faithfulness with which its duties would be discharged.

Mr. RHEA felt himself under great obligations to the honorable member from New York, for the compliment which he had been pleased to pass upon the manner in which the duties of the chairman of the Committee on Revolutionary Services and Pensions had been performed. But, perhaps, the value of the compliment would have been equally appreciated, had it been unattended with the load of additional duties which the honorable gentleman had seemed desirous to attach to it. Mr. R. was disposed to perform his full share of the labors which the exigencies of the nation demanded of their Representatives; but he conceived that all the members of the House came thither with a willingness, and subject to the duty of performing their equal portion of the public business. And he could truly say that the duties of the committee of which he had the honor to be chairman were arduous—without and aside from those burdens which the refusal of this motion would necessarily impose upon them. If the motion he had the honor to submit were rejected, he felt himself bound frankly to say that it would not, in his opinion, be in the power of the Committee on Revolutionary Claims and Pensions to perform these extra duties. The consequence would be, that the petitions preferred on that subject would necessarily be postponed; and he need not add that in such case a delay was tantamount to a denial of justice. It would certainly be expected of the committee that they should attend to their appropriate business before they took up that which came indirectly and by implication within their cognizance; and he could assure the honorable gentleman that a faithful and proper attention to the former would necessarily preclude the latter. He therefore hoped that, on further reflection, the motion would prevail.

The question on the resolution was thereupon taken and carried, and the number of seven was designated; and Messrs. COCKE, REED of Massachusetts, WHIPPLE, WILSON, LONG, JACKSON, and HERRICK, were appointed the said committee.

Mr. MOORE, of Pennsylvania, introduced the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of further providing by law for the prevention of duels among persons employed in the civil, military, and naval service of the United States.

After a brief discussion the resolution was adopted, and the House adjourned.

FRIDAY, December 7.

On motion of Mr. RANKIN, the Committee on the Public Lands were instructed to inquire into the expediency of passing a law for the better organization of the land districts in the State of Mississippi, and the disposal of the public lands in

DECEMBER, 1821.

Canal in Illinois—Reference of President's Message.

H. OF R.

said State, lately acquired, by purchase, from the Choctaw nation of Indians.

On motion of Mr. MALLARY, the Committee on Revolutionary Pensions were directed to inquire into the expediency of authorizing the Secretary of War to restore to the pension roll any person who shall have been stricken therefrom on the evidence of such person's schedule, whenever the Secretary of War shall be satisfied, by additional evidence, that such person is in such reduced circumstances as to come within the provisions of the acts of 1818 and 1820.

REFERENCE OF PETITIONS.

Mr. TRACY submitted the following resolution:

Resolved, That in all cases where petitions were presented at the last session of Congress to this House, and referred to committees, but not finally acted on, both by the committees and the House, the said petitions shall be considered as again presented and referred to the same committees respectively, without special order to that effect; and it shall be the duty of the said committees respectively, upon application in behalf of any petitioner, by a member of the House, to consider and report thereon, in the same manner as if said papers were referred to such committee by special order of the House.

The resolution being read—

Mr. RHEA moved to amend the same, by striking out all after the word *Resolved*, and in lieu thereof to insert, "That in all cases where petitions were presented at the last session to this House, and referred to committees, but not reported upon, the said petitions shall be considered as again referred to the said committees, respectively, upon application of any member to the Clerk, without special order from the House to that effect. And it shall be the duty of the said committees, respectively, to consider and report thereon, in the same manner as if said petitions were referred by special orders of the House; but no petition shall be received or acted upon by a committee under this order, which shall not have been endorsed in, and transmitted to the committee through, the office of the Clerk."

The amendment being read, Mr. TRACY moved to amend the same by striking out the word *session*, and inserting *Congress*: When it was ordered, that the resolution and amendments lie on the table.

CANAL IN ILLINOIS.

Mr. COOK, of Illinois, submitted the following resolution:

Resolved, That the Committee on the Public Lands be instructed to inquire whether any, and if any, what provision is necessary to be made to enable the people of the State of Illinois to open a canal through the public land, to connect the waters of Lake Michigan with the Illinois river.

Mr. FLOYD, of Virginia, opposed the resolution. He thought that Congress had already sufficiently evinced its liberality to the new States. On a former occasion he had proposed a resolution to appropriate a portion of the public lands for the endowment of colleges. That resolution had received the decided opposition of the new States. A Constitutional question was raised on the sub-

ject, which, if it did not convince, at least created so much doubt, in his own mind, as to induce him to forbear to press it. Nor could he, in the present instance, as a member of a State which had done as much at least as any State in the Union for the general benefit, consent to a proposition of this sort. As well might Virginia ask for an appropriation of the public funds for the purpose of completing canals to the city of Richmond. Were such a proposition to be made, he entertained no doubt that it would meet with opposition from the very quarter from whence this resolution had proceeded. Mr. F. was disposed to leave the subject of canals to the energy and ability of those States through which they pass, and for whose benefit they are intended.

Mr. COOK replied: He did not expect that a proposition, so reasonable as he conceived this to be, would meet with opposition, especially in this stage of its progress. The States northwest of the Ohio, he could assure the honorable member from Virginia, felt grateful for all the favors they had received, but in the present case no favor was asked. The object of the resolution was not to solicit a donation from the General Government to assist in making the canal, but merely to reserve a narrow strip of land in the direction of the contemplated canal, and through which it should pass. By this measure the Government, instead of impairing its funds, would increase them. Such an act would undoubtedly enable the Government to dispose of the reservation hereafter at a price greatly enhanced, and at the same time virtually authorize the government of Illinois to go on with its contemplated undertaking.

The question was then taken, and the resolution was adopted.

PRESIDENT'S MESSAGE.

The House then resolved itself into a Committee of the Whole on the state of the Union, Mr. TAYLOR, of New York, in the Chair.

The business in order before the Committee, was upon the resolutions of Mr. WOOD, in relation to a reference of the several subjects presented for consideration in the President's Message to appropriate committees.

Mr. NELSON, of Virginia, moved to strike out all that part of the resolutions proposed by Mr. WOOD, which follows the word "resolved," and to insert in lieu thereof the following:

1. *Resolved*, That so much of the President's Message as concerns the commercial intercourse of the United States with all foreign nations, and all other matters relating to the commerce of the United States, be referred to the Committee of Commerce.

2. *Resolved*, That so much of the President's Message as relates to the foreign and diplomatic affairs of the United States, in their intercourse with all other nations, be referred to a select committee.

3. *Resolved*, That so much of the President's Message as relates to the Floridas, and the organization of a Territorial government for them, be referred to the Committee on the Judiciary.

4. *Resolved*, That so much of the President's Message as concerns the revenue and finances of the Uni-

ted States, be referred to the Committee of Ways and Means.

5. *Resolved*, That so much of the President's Message as relates to manufactures and the promotion of national industry, be referred to the Committee of Manufactures.

6. *Resolved*, That so much of the President's Message as concerns the Military Establishment and Fortifications, be referred to a select committee.

7. *Resolved*, That so much of the President's Message as relates to the Naval Establishment; its gradual increase; the repairs and construction of vessels of war; the protection of our trade in the Mediterranean and on the high seas against the Barbary Powers, and against all piratical depredations, be referred to a select committee.

8. *Resolved*, That so much of the President's Message as relates to the slave trade, be referred to a select committee.

9. *Resolved*, That the said select committees have leave to report by bill or otherwise.

The four first resolutions were successively adopted. The fifth being under consideration, Mr. EDWARDS, of North Carolina, moved to amend the same by striking therefrom the words "and the promotion of national industry," which, after some discussion thereon, was lost, and the fifth and sixth resolutions were severally adopted.

Mr. SAWYER moved to insert in the seventh resolution, after the word "Mediterranean," the words "Pacific ocean," which was carried, and the resolution was adopted without further amendment.

The eighth and ninth resolutions were also adopted, when the Committee, rose, reported progress, and obtained leave to sit again.

In the House Mr. WRIGHT moved the same amendment of the fifth resolution that had been proposed in the Committee of the Whole, which was negatived.

Mr. RICH moved to insert the words, "suppression of," before the words "slave trade," in the eighth resolution, which was agreed to, and the House concurred in the report of the Committee of the Whole without further amendment.

Messrs. RUSSELL, RODNEY, WRIGHT, TRIMBLE, TAYLOR, ARCHER, and FARRELY, were appointed a committee in pursuance of the second resolution.

Messrs. EUSTIS, VAN RENSSLAER, COCKE, BASSETT, DARLINGTON, SMITH, of Kentucky, and MATTOCKS, were appointed a committee in pursuance of the sixth resolution.

Messrs. McLANE, FULLER, HARDIN, WARFIELD, CAMBRELENG, GILMER, and PLUMER, of Pennsylvania, were appointed a committee in pursuance of the seventh resolution.

Messrs. GORHAM, HEMPHILL, POINSETT, PHILLIPS, J. T. JOHNSON, BORLAND, and SWEARINGEN, were appointed a committee in pursuance of the eighth resolution.

The House adjourned to Monday.

MONDAY, December 10.

Another member, to wit: from North Carolina, WILLIAM S. BLACKLEDGE, appeared, was qualified, and took his seat.

A message from the Senate informed the House

that the Senate have passed a resolution that two Chaplains, of different denominations, be appointed to Congress during the present session, one by each House, who shall interchange weekly. They have also passed a resolution for the appointment of a joint committee who shall have the direction of the money appropriated for the purchase of books, &c., for the library of Congress. And they have passed a bill, entitled "An act authorizing the transmission of certain documents free of postage; in which resolutions and bill they ask the concurrence of this House.

Mr. CAMBRELENG presented the memorial of the Mayor, Aldermen, and Commonalty of the city of New York, stating that in 1807 they ceded to the United States a piece of ground within their corporate limits, for the purpose of enabling the United States to erect works of defence thereon, with condition, however, that, whenever said ground should cease to be used for public purposes, it should revert to the grantors, and as the United States have long since ceased to employ said ground for the purpose for which it was ceded, they pray that the same may be retroceded to them; which memorial was referred to the Committee on Military Affairs.

Mr. KENT presented a memorial of the Mayor, Aldermen, and Common Council, of the City of Washington, praying that authority may be vested in them to change the location of that part of the canal in said city which runs along the line of Pennsylvania Avenue, and that certain public grounds on said avenue, lying between Second and Sixth Streets west, may be laid off into building lots and disposed of, and that the proceeds may be applied to the draining certain other public lands in the said city, which lie in a marshy situation, to the manifest injury of the health of the inhabitants of their city; which memorial was referred to the Committee for the District of Columbia.

Mr. HENDRICKS presented a petition of William Briston, of Cumberland county, in the State of Kentucky.

The resolution from the Senate authorizing the appointment of two Chaplains to Congress was read and concurred in by the House.

The SPEAKER presented a memorial of the General Assembly of the State of Alabama, complaining of the unequal and injurious operation of two several acts of Congress, passed on the 21st of April, 1820, and 27th of November, 1820, concerning the district court of that State, and praying that the said laws may be revised and amended, so that there shall be two terms annually of said court, and that some better and more convenient provisions may be made for the examination and preservation of the records of said court; also, praying that provisions may be made for completing the fortifications already commenced for the protection of the harbor of Mobile.—Referred.

The SPEAKER also presented a remonstrance and petition of Matthew Lyon, complaining of the illegal election and return of James Woodson Bates, as the Delegate for the Territory of Arkansas, and praying that the said return may be set aside, that Mr. Bates may not be allowed to take

DECEMBER, 1821.

Proceedings.

H. OF R.

or hold a seat as Delegate aforesaid, and that a new election may be ordered; which remonstrance and petition was referred to the Committee of Elections.

The resolution from the Senate authorizing the appointment of a joint committee to have the direction of the money appropriated for the Library of Congress, was read and concurred in by the House; and Messrs. POINSETT, A. SMYTH, and WHIPPLE, were appointed of the said committee on the part of this House.

The bill from the Senate, entitled "An act authorizing the transmission of certain documents free of postage," was read twice and ordered to be read a third time to-day. It was, accordingly, read the third time, and passed.

On motion of Mr. SCOTT, the Committee on the Public Lands were instructed to inquire into the expediency of making further provision by law for the final adjustment of the unconfirmed land claims in the State of Missouri, derived from the French and Spanish Governments respectively; and of referring the final settlement of those claims to some proper tribunal, to be empowered or established for that purpose.

On motion of Mr. BATES, the Committee on the Public Lands were instructed to inquire into the expediency of making provision by law for the final adjustment of the unconfirmed land claims in the Territory of Arkansas, derived from the French and Spanish Governments; and of referring the settlements of those claims to some tribunal established or to be created.

On motion of Mr. SCOTT, the Committee on the Public Lands were instructed to inquire whether any, and, if any, what, application is proper to be made of the fund arising from the sales of the public lands in the States of Indiana, Illinois, Missouri, and Alabama, and which has been reserved by law for the purpose of making roads and canals leading to those States respectively.

On motion of Mr. SAWYER, the committee on so much of the President's Message as relates to the suppression of the slave trade, were instructed to inquire into the expediency of continuing in force, for a further term, an act passed the 3d of March, 1819, which, by the act of the 15th May, 1820, was extended to two years, and entitled An act to protect the commerce of the United States, and punish the crime of piracy.

On motion of Mr. FLOYD, a committee was appointed to inquire into the expediency of occupying the Columbia river and the territory of the United States adjacent thereto, and of regulating the trade with the Indian tribes; and that they have leave to report by bill or otherwise. Messrs. FLOYD, BAYLIES, and SCOTT, were appointed the said committee.

On motion of Mr. BUTLER, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of providing by law for prohibiting printers and editors of newspapers, and all other persons who are proprietors of any such printing establishment, or in any way concerned in the publication of newspapers, from being mail contractors, or postmasters; and also prohib-

iting postmasters from being mail contractors, or being employed in the conveyance of the mail.

On motion of Mr. LATHROP, the House proceeded to consider the resolution submitted by him on the 6th instant, and the said resolution being again read, was modified and agreed to by the House, as follows:

Resolved, That the Committee of Revision and Unfinished Business be instructed to consider the expediency of reviving the several acts of Congress of August 2d, 1813—January 9, 1815—and March 5, 1816, laying a direct tax within the United States, so far, as to allow a further time of redemption on the lands sold for the non-payment of the tax, where the same have been purchased on behalf of the United States.

Mr. TRACY called for the consideration of the resolution by him submitted on Friday, relative to petitions that had been referred to committees during the last session of Congress and not acted upon, which was thereupon taken up, and after some discussion of the subject, the same, on motion of Mr. WALWORTH, was indefinitely postponed.

Mr. COOK submitted the following resolution:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of allowing the members of the Legislature of each State to receive and transmit letters free of postage, and such documents, not exceeding one ounce weight, as may be printed by order of such Legislature within the limits of their respective States.

The said resolution was read, and the question was put, Will the House agree thereto? and determined in the negative.

On motion of Mr. WOOD, the House proceeded to consider the resolutions submitted by him on the 6th instant, and the same being again read, were modified, and the first, second, fourth, fifth, seventh, eighth, and ninth, were agreed to, and the third and sixth were again laid on the table.

The said resolutions, as modified and agreed to, are as follows:

1. *Resolved*, That the subject of the marine and navy hospital funds, and the provision for sick and disabled seamen, be referred to the Committee on Commerce.

2. *Resolved*, That the subject of the duties and compensations of the persons employed in the collection of the revenue arising from imports and tonnage, be referred to the Committee of Commerce.

4. *Resolved*, That the subject of the Post Office Establishment be referred to the Committee on the Post Office and Post Roads.

5. *Resolved*, That the subject of the compensation of marshals, clerks and attorneys, in the courts of the United States, be referred to the Committee on the Judiciary.

7. *Resolved*, That the subject of the public armories, arsenals, and munitions of war, appertaining to the War Department, be referred to the Committee on Military Affairs.

8. *Resolved*, That the subject of naval stores and munitions of war, appertaining to the Naval Department, be referred to the Committee on Naval Affairs.

9. *Resolved*, That the subject of the public buildings, and the public lands in the City of Washington, be referred to a select committee.

H. OF R.

Duty on Books—Chaplain to the House.

DECEMBER, 1821.

MESSRS. BLACKLEDGE, VAN WYCK, CASSEDDY, BROWN, CUSHMAN, HOBART, and WILLIAMS, of Virginia, were appointed a committee pursuant to the ninth resolution.

DUTY ON BOOKS.

Mr. NELSON, of Virginia, presented a petition of the Rector and Visitors of the University of Virginia, signed by Thomas Jefferson, Rector, praying that the aid and patronage of Congress may be extended to the cause of science and literature generally, throughout the United States, by an exemption from duties of all books and other articles generally used in acquiring information.—Referred to the Committee of Ways and Means.

The memorial is as follows:

To the Senate and House of Representatives of the United States of America in Congress assembled :

The petition of the rector and visitors of the University of Virginia, on behalf of those for whom they are in the office of preparing the means of instruction, as well as of others seeking it elsewhere, respectfully representeth :

That the Commonwealth of Virginia has thought proper lately to establish a university for instruction, generally, in all the useful branches of science, of which your petitioners are appointed rector and visitors, and, as such, are charged with attention to the interests of those who shall be committed to their care.

That they observe, by the tariff of duties imposed by the laws of Congress on importations into the United States, an article peculiarly inauspicious to the objects of their own, and of all other literary institutions throughout the United States.

That at an early period of the present Government, when our country was burdened with a heavy debt, contracted in the war of Independence, and its resources for revenue were untried and uncertain, the National Legislature thought it as yet inexpedient to indulge in scruples as to the subjects of taxation, and, among others, imposed a duty on books imported from abroad, which has been continued, and now is, of fifteen per cent., on their prime cost, raised by ordinary custom-house charges to eighteen per cent., and by the importer's profits to perhaps twenty-five per cent., and more.

That, after many years' experience, it is certainly found that the reprinting of books in the United States is confined chiefly to those in our native language, and of popular characters, and to cheap editions of a few of the classics for the use of schools; while the valuable editions of the classical authors, even learned works in the English language, and books in all foreign living languages, (vehicles of the important discoveries and improvements in science and the arts, which are daily advancing the interest and happiness of other nations,) are unprinted here, and unobtainable from abroad but under the burden of a heavy duty.

That of many important books, in different branches of science, it is believed that there is not a single copy in the United States; of others, but a few; and these too distant and difficult of access for students and writers generally.

That the difficulty resulting from this mode of procuring books of the first order in the sciences, and in foreign languages, ancient and modern, is an unfair impediment to the American student, who, for want of these aids, already possessed or easily procurable in all countries except our own, enters on his course with

very unequal means, with wants unknown to his foreign competitors, and often with that imperfect result which subjects us to reproaches not unfelt by minds alive to the honor and mortified sensibilities of their country.

That, to obstruct the acquisition of books from abroad, as an encouragement of the progress of literature at home, is burying the fountain to increase the flow of its waters.

That books, and especially those of the rare and valuable character, thus burdened, are not articles of consumption, but of permanent preservation and value, lasting often as many centuries as the houses we live in, of which examples are to be found in every library of note.

That books, therefore, are capital, often the only capital of professional men on their outset in life, and of students destined for professions, (as most of our scholars are,) and barely able, too, for the most part, to meet the expenses of tuition, and less to pay an extra tax on the books necessary for their instruction; that they are consequently less instructed than they would be; and that our citizens at large do not derive from their employment all the benefits which higher qualifications would procure them.

That this is the only form of capital on which a tax of from 18 to 25 per cent. is first levied on the gross, and the proprietor then subject to all other taxes in detail, as those holding capitals in other forms, on which no such extra tax has been previously levied.

That it is true that no duty is required on books imported for seminaries of learning; but these, locked up in libraries, can be of no avail to the practical man, when he wishes a recurrence to them for the uses of life.

That more than thirty years' experience of the resources of our country prove them equal to all its debts and wants, and permit its Legislature now to favor such objects as the public interests recommend to favor.

That the value of science to a republican people; the security it gives to liberty, by enlightening the minds of its citizens; the protection it affords against foreign power; the virtues it inculcates; the just emulation of the distinction it confers on nations foremost in it; in short, its identification with power, morals, order, and happiness, (which merits to it premiums of encouragement rather than repressive taxes,) are topics, which your petitioners do not permit themselves to urge on the wisdom of Congress, before whose minds these considerations are always present, and bearing with their just weight.

And they conclude, therefore, with praying that Congress will be pleased to bestow on this important subject the attention it merits, and give the proper relief to the candidates of science among ourselves, devoting themselves to the laudable object of qualifying themselves to become the instructors and benefactors of their fellow-citizens.

And your petitioners, as in duty bound, shall ever pray, &c.

THOMAS JEFFERSON,

Rector of the University of Virginia.

NOVEMBER 30, 1821.

CHAPLAIN TO THE HOUSE.

On motion of Mr. BATEMAN, the House then proceeded to the election of a Chaplain, and the following gentlemen were nominated, viz :

Rev. Jared Sparks, Rev. Maurice W. Dwight, Rev.

DECEMBER, 1821.

Proceedings.

H. OF R.

Burgess Allison, Rev. John M. Bradford, Rev. Reuben Post, Rev. John Chalmers.

On the first ballot, the votes were declared to stand as follows: Whole number of votes, 163. Necessary to a choice, 82. Of which there were—

For Rev. Mr. Sparks	-	-	-	53
Allison	-	-	-	41
Dwight	-	-	-	33
Bradford	-	-	-	16
Post	-	-	-	15
Scattering	-	-	-	5

163—no choice.

On the second ballot, the following result was declared: Whole number of votes 160. Necessary to a choice 81. Of which there were—

For Rev. Mr. Sparks	-	-	-	62
Allison	-	-	-	43
Dwight	-	-	-	38
Bradford	-	-	-	7
Post	-	-	-	7
Scattering	-	-	-	3

160—no choice.

A third ballot presented the following result: Whole number of votes 157. Necessary to a choice 79. Of which there were—

For Rev. Mr. Sparks	-	-	-	67
Allison	-	-	-	53
Dwight	-	-	-	33
Scattering	-	-	-	4

157—no choice.

The fourth ballot terminated as follows: Whole number of votes 155. Necessary to a choice 78. Of which there were—

For Rev. Mr. Sparks	-	-	-	84
Allison	-	-	-	52
Dwight	-	-	-	18
Blank	-	-	-	1

Whereupon it was declared, that the Reverend JARED SPARKS was chosen Chaplain to Congress on the part of the House of Representatives.

TUESDAY, December 11.

Another member, to wit: from Georgia, ROBERT RAYMOND REID, appeared, produced his credentials, was qualified, and took his seat.

Mr. SERGEANT, of Pennsylvania, from the Committee on the Judiciary, reported a bill for the establishment of an uniform system of bankruptcy throughout the United States, which was read by its title. Among other remarks, Mr. S. stated that the subject of the bill was a matter of deep interest to the people of the United States; that he had presented it thus early in order to give members time to prepare their minds on it; and that it was the same in form as that which came from the Senate at the last session. Mr. S. then moved that it be referred to a Committee of the whole House, and made the order of the day for the first Monday in January next; which was agreed to.

Mr. SMITH, of Maryland, submitted the following resolutions, viz:

1st. *Resolved*, That the Secretary of the Treasury be directed to report to this House a statement showing the amount annually received under the act for the relief of sick and disabled seamen during the years 1817, 1818, 1819, and 1820, and the annual expenditures of the same during those years.

2d. *Resolved*, That the Commissioners of Navy Hospitals be directed to report to this House a statement showing the annual receipts of the navy hospital fund, and the balance that remains in their hands unexpended.

The resolutions were ordered to lie on the table until to-morrow.

On motion of Mr. SCOTT, the Committee on the Public Lands were instructed to inquire into the expediency of providing, by law, for the payment to the State of Missouri of so much of the moneys, being three per cent., arising from the sale of public lands in the State of Missouri, made since the first day of January, 1821, as has been reserved by the third clause of the sixth section of the act of Congress of the 6th of March, 1820, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain Territories."

On motion of Mr. RHEA, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of reviving and continuing in force the act entitled "An act to provide for persons who were disabled by known wounds received in the Revolutionary war," approved on the 10th of April, 1806, and the several subsequent acts amending and extending the same.

On motion of Mr. WILLIAMS, of North Carolina, the Committee on Military Affairs were instructed to inquire into the expediency of allowing to officers in the Army of the United States, a salary, or stated sum of money per year, instead of pay and emoluments, as now allowed by law.

Mr. WHITMAN submitted the following resolutions, viz:

Resolved, That the Secretary of State be directed to lay before this House copies of any communications received at his office, having relation to any misunderstanding which may have existed between Andrew Jackson, as Governor of the Floridas, and Elijah Fromentin, as judge of the court therein. And, also, in relation to any delay or omission on the part of the officers under His Catholic Majesty to surrender to the officers and commissioners of the United States, duly authorized to receive the same, any of the archives and documents which relate directly to the property and sovereignty in and over the said Floridas. And, also, in relation to the means adopted by the officers and commissioners on the part of the United States to obtain possession of such archives and documents.

The resolutions were ordered to lie on the table until to-morrow.

On motion of Mr. FARRELLY,

Resolved, That the resolution of the Legislature of Pennsylvania, requesting their Senators and Representatives in Congress to use their exertions in procuring the passage of a law providing for the removal of the obstructions in the entrance of the harbor of

Erie, on Lake Erie, and pledging the co-operation of that State with the United States, in the accomplishment of that object, and which was referred on the 12th of February, 1821, to the Committee on Commerce, be again referred to the same committee.

On motion of Mr. HEMPHILL, the subject of roads and canals was referred to a select committee, and Messrs. HEMPHILL, REID, of Georgia, HAWKES, MATSON, BALL, BURTON, and VANCE, were appointed the said committee.

MILITIA AND REGULARS.

Mr. CANNON submitted the following resolutions, viz :

1st. *Resolved*, That it is expedient to provide for the general defence, by making further provision for arming, organizing, and improving in discipline, the militia of the United States.

2d. *Resolved*, That a select committee be appointed on the subject of the militia, whose duty it shall be to inquire into the expediency of organizing and providing for the improvement, in discipline, of the militia of the different States and Territories; and that the said committee have leave to report by bill or otherwise.

3d. *Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of increasing the annual appropriation for arming the militia.

4th. *Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of organizing the regular Army, so that companies in the different corps contain the number of non-commissioned officers and privates they did previous to the reduction and organization made under the act of the last session of Congress; and that said committee inquire into the expediency of disbanding the supernumerary officers and reducing the general staff.

5th. *Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of reducing the number of cadets, educated at the public expense, in the Military Academy at West Point, to such number as may be necessary for the regular Army of the United States.

The said resolutions were ordered to lie on the table.

CONTESTED ELECTION.

Mr. SLOAN, from the Committee of Elections, to whom was referred the memorial of Cadwallader D. Colden, contesting the election and return of Peter Sharpe, as one of the Representatives for the State of New York, made a report thereon; which was committed to a Committee of the whole House to-day. The report is as follows:

That it appears that, by law, the State of New York is divided into districts for the purpose of electing Representatives to Congress. That the first Congressional district of said State is composed of the counties of Suffolk, Queens, Kings, Richmond, and the first and second wards of the city of New York, and is entitled to elect two Representatives. That, by the law of said State, elections are held in the several towns and wards, by ballot, before the supervisors, assessors, and town clerks, who officiate as inspectors of said elections. That, after the polls are finally closed and the number of votes ascertained, it is required of the said inspectors to make out a certificate of the election, specifying the

number of votes given for each candidate, a record of which is to be made by the town clerk, and a copy of the certificate is to be lodged, by the inspectors, with the clerk of the proper county, who is required to transmit an exact transcript of all the certificates thus delivered to him to the Secretary's office of said State. And the Secretary, Surveyor General, Attorney General, Comptroller, and Treasurer of said State are constituted canvassers of elections, and are required to examine said transcripts, and determine therefrom who are elected in the several districts, and to give to the persons elected certificates of their election. That, in the month of April last, an election was held for Representatives to Congress from the State of New York, and that, by a statement of the votes given in the said first district, at said election, and which statement is under the official seal of the Secretary of said State, it appears that Silas Wood, Peter Sharpe, Cadwallader D. Colden, and Joshua Smith, were candidates at said election.

Silas Wood had	-	-	-	3,960 votes.
Cadwallader D. Colden	-	-	-	3,339
Peter Sharpe	-	-	-	3,369
Joshua Smith	-	-	-	3,326
Cadwallader D. Colder	-	-	-	220
Cadwallader Colden	-	-	-	395

The 220 votes which appear by this statement to have been given to Cadwallader D. Colder, are represented to have been given in the town of Brookhaven, in the county of Suffolk; and the 395 votes for Cadwallader Colden, are stated to have been given in the town of Hempstead, in Queens county; in which towns no votes were allowed to Cadwallader D. Colden by the State canvassers. Charles H. Havens, clerk of the county of Suffolk, testifies that, by the certificate of election returned to him by the inspectors of the said election in the town of Brookhaven, Cadwallader D. Colden had 220 votes, and that he presumes that in the transcript made out by him, and transmitted to the office of the Secretary of State, the State canvassers have mistaken his final letter in the name of Mr. Colden for an *r*. Samuel Sherman, clerk of Queens county, testifies that, by the return made to his office by the inspectors of the town of Hempstead, it appears that Cadwallader D. Colden had, in said town of Hempstead, 395 votes, but that, in the transcript which he made therefrom, and transmitted to the office of the Secretary of the State of New York, the letter *D* in Mr. Colden's name was omitted by him through mistake. From which testimony it appears that the votes in the towns of Brookhaven and Hempstead were in fact given for Cadwallader D. Colden, and ought to have been so returned and allowed by the officers of the State of New York, at the general canvass of the State; and that, being allowed these votes, it will make the whole number of votes given for Cadwallader D. Colden amount to 3,954, being 585 more than were given for Peter Sharpe.

The committee will forbear from exhibiting arguments to prove that votes thus fairly and honestly given ought not to be lost or set aside for any omission or mistake of any of the returning officers. It is conceived to be entirely unnecessary to prove that what has been the uniform decision of the House of Representatives ever since the formation of the Government, in such cases, has been correct. It is to be presumed that Mr. Sharpe has obtained from the proper authority of the State of New York a certificate of his election. There is testimony that Mr. Colden has notified him

DECEMBER, 1821.

Public Lands for Education, &c.

H. OF R.

that he intended to contest his right to a seat, but Mr. Sharpe has produced no testimony whatever, nor signified any intention to resist the claim of Mr. Colden. The committee submit the following resolutions:

Resolved, That Peter Sharpe is not entitled to a seat in this House.

Resolved, That Cadwallader D. Colden is entitled to a seat in this House.

LANDS FOR EDUCATION.

Mr. NELSON, of Maryland, submitted the following resolution:

Resolved, That a committee be appointed to inquire into the expediency of making such an appropriation of the public lands to the purposes of education in those States to which no grants have yet been made, as will correspond in a just proportion with the appropriations heretofore made in favor of other States; and that said committee have leave to report by bill or otherwise.

Mr. HARDIN, of Kentucky, proposed to amend the resolution, so as to refer the subject to the Committee on the Public Lands, instead of a select committee.

A discussion ensued on Mr. H.'s motion, which was supported by the mover and Messrs. FLOYD, of Virginia, RANKIN, and BALDWIN; and opposed by Messrs. NELSON, of Maryland, and SERGEANT, of Pennsylvania; when

Mr. WOODSON, of Kentucky, moved to amend the amendment by substituting after the word *Resolved*, in the original proposition, the following, viz:

"That a special committee be appointed, with instructions to inquire into the expediency of appropriating the proceeds of the public lands to the creation of a permanent fund for the purposes of education and internal improvements throughout the United States."

Mr. COOK moved that the amendment last proposed lie on the table, to the end that the whole subject be postponed until further information be obtained relative to the disposition of the people in regard to the subject, as expressed by their respective Legislatures, now in session, before whom it is known to be agitated.

The motion to lay the subject on the table was opposed at some length by Messrs. MALLARY, WOODSON, WRIGHT, and WARFIELD; but by consent of the original mover, (Mr. NELSON,) the same was ultimately ordered to lie on the table.

ASSISTANT DOORKEEPER.

The House proceeded to consider the motion made on the 4th instant to proceed to the appointment of an Assistant Doorkeeper; and the question being stated, "Will the House now proceed to the election of an Assistant Doorkeeper?" whereupon Mr. LITTLE moved that the said appointment be postponed indefinitely; which motion being rejected, Mr. RICH moved to add, as a condition to the appointment, the following, viz: "who shall receive from the contingent fund of the House — dollars per day during the session of Congress, for which only his services shall be required."

And on the question to agree to this amendment, it was determined in the negative.

The House then proceeded to the election of an Assistant Doorkeeper, and, upon an examination of the first ballot, it appeared that no choice had been made.

WEDNESDAY, December 12.

Mr. SERGEANT presented a memorial of the President and Directors of the Bank of the United States, on behalf of the stockholders of that bank, praying for an amendment in that part of the charter of said bank which declares that no director, except the president, shall be eligible more than three years in four; that provision may be made for the punishment of such officers of the bank as may be guilty of fraud, speculation, or breach of the trusts committed to them; that the president and directors may be authorized to employ some person to sign and countersign the notes of the bank; and that bills or notes originally made payable, or which shall have become payable, on demand, shall of right be receivable and payable only at the bank, or branch of the bank, at which such bills or notes purport to be payable; which memorial was referred to a select committee, and Messrs. SERGEANT, COLDEN, GORHAM, STEVENSON, and LITTLE, were appointed the said committee.

Mr. LATHROP, from the Committee on Revision and Unfinished Business, reported a bill for extending the time for the redemption of land sold for the direct tax; which bill was twice read, and referred to a Committee of the Whole.

The SPEAKER laid before the House a certificate of the election of CHARLES BORLAND, jr., as a member of this House for the State of New York; also, a letter from the Governor of the State of Pennsylvania, enclosing the certificate of the election of THOMAS MURRAY, jr., and JOHN FINDLAY, as members of this House for that State. The said certificates were referred to the Committee of Elections.

REVOLUTIONARY PENSIONS.

Mr. RHEA, from the Committee on Pensions, reported a bill to revive and continue in force for a longer time the act to revive and continue in force the act to provide for persons who were disabled by known wounds received in the Revolutionary war, and for other purposes; which was twice read.

Mr. R. proposed to fill the blank in the bill, for the duration of this act, with *two* years; but Mr. TUCKER, of Virginia, with a view to prevent repeated legislation on the subject, proposed *six* years; which motion was acceded to by Mr. R., and was agreed to by the House.

The bill was then ordered to be engrossed, and read a third time to-morrow.

NEW YORK CONTESTED ELECTION.

The House then resolved itself into a Committee of the Whole, to take into consideration the report of the Committee on Elections, on the petition of Cadwallader D. Colden, claiming a seat in this House, in the place of PETER SHARPE, in whose favor the return had been made. The report is

H. OF R.

Annual Treasury Report.

DECEMBER, 1821.

favorable to Mr. Colden's claim to a seat, and, of course, adverse to that of Mr. SHARPE.

The report of the Committee on Elections relative to the subject was read and approved; whereupon the Committee of the Whole rose, and reported resolutions favorable to the prayer of the petition, which were concurred in by the House.

Mr. COLDEN appeared, was qualified, and took his seat.

ANNUAL TREASURY REPORT.

The SPEAKER announced the receipt of the Annual Report of the Secretary of the Treasury; which, on motion of Mr. TAYLOR, was referred to the Committee of Ways and Means; and, on motion of Mr. MALLARY, 5,000 copies thereof were ordered to be printed. The report is as follows:

TREASURY DEPARTMENT, Dec. 10, 1821.

SIR: I have the honor to transmit a report prepared in obedience to the "Act supplementary to the act to establish the Treasury Department."

I have, &c., WM. H. CRAWFORD.
Hon. PHILIP P. BARBOUR,
Speaker, House of Representatives.

REPORT.

In obedience to the directions of the "Act supplementary to the act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following report:

1. Of the revenue.

The net revenue arising from imports and tonnage, internal duties, direct tax, public lands, postage, and other incidental receipts, during the year 1818, amounted to - - - \$26,095,200 65

Viz:	
Customs - - -	21,828,451 48
Arrears of internal duties - - -	947,946 33
Arrears of direct tax - - -	263,926 01
Public lands exclusive of Mississippi stock - - -	2,464,527 90
Dividend on stock in the Bank of the United States - - -	525,000 00
Postage and other incidental receipts	65,348 93

That which accrued from the same sources, during the year 1819, amounted to - - - \$21,435,700 69

Viz:	
Customs - - -	17,116,702 96
Arrears of internal duties - - -	227,444 01
Arrears of direct tax - - -	80,850 61
Public lands, exclusive of Mississippi stock - - -	3,274,422 78
First instalment from the Bank of the United States, and dividend on stock in that bank - - -	675,000 00
Postage and other incidental receipts	61,280 33

And that which accrued from the same sources, during the year 1820, amounted to - - - \$15,284,546 29

Viz:	
Customs - - -	12,449,556 15
Arrears of internal duties - - -	104,172 07
Arrears of direct tax - - -	31,286,82
Public lands, exclusive of Mississippi stock - - -	1,635,871 61
Second and third instalments from the Bank of the United States - - -	1,000,000 00
Postage and other incidental receipts	63,659 64

It is estimated that the gross amount of duties on merchandise and tonnage, which accrued during the first three quarters of the present year, exceeds \$14,088,000.

The payments into the Treasury, to the 30th September last, have amounted to - - - \$16,219,197 70

Viz:	
Customs - - -	10,068,394 85
Public lands - - -	940,980 35
Arrears of internal duties and direct tax - - -	69,867 26
Bank dividends - - -	105,000 00
Incidental receipts - - -	21,581 51
Repayments - - -	13,373 73
Loan - - -	5,000,000 00

And the payments into the Treasury, during the fourth quarter, are estimated at - - - 3,595,278 14

Viz:	
Customs - - -	3,000,000 00
Public lands - - -	360,000 00
Moneys recovered out of advances made in the War Department before the 1st of July, 1815 - - -	120,000 00
Balances of military appropriations carried to the account of the surplus fund - - -	90,278 14
Direct tax and internal duties, and incidental receipts	25,000 00

Making the total amount estimated to be received into the Treasury during the year 1821 - - - 19,814,475 84

Which, added to the balance in the Treasury on the first of January last, of - - - 1,198,461 21

Make the aggregate amount of - \$21,012,937 05

The application of this sum for the year 1821, is estimated as follows, viz:

DECEMBER, 1821.

Annual Treasury Report.

H. OF R.

The payments to the 30th of September have amounted to - - \$15,655,288 47

Civil, diplomatic and miscellaneous - 1,772,717 30

Military service, including fortifications, ordnance, Indian departm't, Revolutionary and military pensions, arming the militia, and arrearages prior to the 1st of January, 1817 - 4,872,865 78

Naval service, including the gradual increase of the Navy - - 2,603,592 75

Public debt including \$591,611 30 of Mississippi st'k 6,406,112 64

During the fourth quarter it is estimated that the payments will amount to - - - - - 3,580,000 00

Viz :

Civil, diplomatic, and miscellaneous - 690,000 00

Military service - 290,000 00

Naval service - 700,000 00

Public debt - - 1,900,000 00

Making the aggregate amount of - 19,235,288 47

Which, being deducted from the above sum of \$21,012,937 05 will leave in the Treasury, on the 1st day of January next, a balance estimated at - - - - - \$1,777,648 58

But, of the balances of appropriations for the service of the year 1821, necessary to effect the object of those appropriations, exclusive of balances, which will not be required, and which have been deducted from the estimates of the year 1822, or will be carried to the account of the surplus fund, there remains the sum of \$2,268,611 28, which is an existing charge upon the revenue of 1821, and exceeds the balance estimated to be in the Treasury on the 1st day of January next, by \$490,962 70.

2. Of the public debt.

The funded debt which was contracted before the year 1812, and which was unredeemed on the 30th of September, 1820, amounted to - \$20,570,627 12

And that contracted subsequently to the 1st of January, 1812, and unredeemed on the 30th September, 1820, amounted to - - - 70,654,933 65

Making the aggregate amount of - 91,225,560 77

Which sum agrees with the amount stated in the last annual report as unredeemed on the 1st of October, 1820, excepting the sum of \$38 66, which was then short estimated, and which has been since corrected by actual settlement.

In the fourth quarter of the year, there was added to the above, the sum of - - - - - 457,747 95

Viz :

In 6 and 7 per cent. stocks, for Treasury notes brought into the Treasury, and cancelled - \$3,280 29

In 5 per cent. stock, under the act of May 15, 1820 - 454,567 66

Making - - - - 91,683,308 72

And there was paid in the fourth quarter the sum of - - - 388,892 21

Viz :

Deferred stock reimbursed - - 249,401 58

Payments on account of the Louisiana stock - 139,490 63

Making the public debt, unredeemed on the 1st of January, 1821 - 91,294,416 51

From the 1st of January to the 30th of September, inclusive, there has been added the sum of - - 4,739,776 38

Viz :

Three per cent. stock, for interest on registered debt 26 01

Treasury note 6 and 7 per cent. stock 4,454 07

Loan authorized by act of 3d of March, 1821 - - - 4,735,296 30

Making - - - - 96,034,192 89

From which is to be deducted the sum of - - - - 2,348,097 15

Viz :

Reimburse't of deferred stock, during the same period - 276,737 15

Payments on account of Louisiana stock - - 2,071,360 00

Making the public debt which was unredeemed on the 1st of October, 1821 - - - - 93,686,095 74

To which will be added, in the fourth quarter, Treasury note six per cent. stock issued - - - 390 40

Making - - - - 93,686,486 14

From which will be deducted, in the fourth quarter, the sum of - - 262,880 41

Viz :

Reimbursement of deferred stock - 257,312 26

Residue of Louisiana stock - - 5,568 15

Making the amount of the public debt, unredeemed on the 1st of January, 1822, is estimated - - \$93,423,605 73

The Treasury notes yet outstanding are estimated at - - - - \$28,495 00

H. OF R.

Annual Treasury Report.

DECEMBER, 1821.

The awards made by the commissioners, appointed under the several acts of Congress for the indemnification of certain claimants of public lands in the Mississippi Territory, amounted to	- -	4,282,151 12
Of which there have been received at the General Land Office in stock	- 2,442,535 39	
And there have been paid at the Treasury	- 1,734,490 85	
Making together	- - -	4,177,026 24
And leaving outstanding on the 30th of September, 1821	- - -	\$105,124 88

3. *Of the estimates of the Public Revenue and Expenditure for the year 1822.*

The diminution of the revenue from imports and tonnage, which occurred in 1819, advanced with progressive force through 1820, and reached its lowest point of depression in the first quarter of the present year. The duties secured in that quarter were \$727,000 less than those of the corresponding quarter of 1820; whilst the amount secured in the second and third quarters exceeded that of the same period of the preceding year by \$1,172,000; thus presenting, on the 30th of September last, an aggregate excess of \$445,000, for the three first quarters of 1821; which sum, there is just reason to believe, will be considerably augmented at the end of the year.

Whilst the duties have progressively increased, the debentures chargeable upon them have considerably diminished; the amount of debentures issued from the 1st of January to the 30th of September last, being 952,000 less than was issued during the same period of the preceding year.

The same causes which, in 1819 and 1820, effected so great a reduction of the revenue arising from imports and tonnage, were felt in an equal degree in the sale of the public lands. Those who, from an anticipation of their resources previously to those years, were unable to purchase foreign merchandise, were equally incapable of purchasing public lands, or of discharging debts contracted with the Government by purchases antecedently made.

In the annual report of the Treasury at the commencement of the last session of Congress, the receipts from the public lands for the year 1821 were estimated at \$1,600,000, if no change should be made by law affecting the obligations which the purchasers were then under to be punctual in their payments. But, at the close of that session, an act was passed for the relief of the purchasers of public lands, which so far impaired that obligation as to induce the Committee of Ways and Means to estimate the proceeds of that source of revenue at only \$800,000. It has been shown, however, that the receipts to the 30th of September last have exceeded \$940,000; and those of the whole year are now estimated at \$1,300,000.

This result in relation to the public lands, and the improvement which has taken place in the revenue arising from imports and tonnage, indicate a favorable change in the condition of the nation; from which a progressive increase of the public revenue may be confidently anticipated.

Independently, however, of any such increase, the facts disclosed by the fiscal operations of the year, some of which have been enumerated, warrant the conclusion,

That the receipts of the years 1822 may be estimated at - - \$16,110,000 00

Viz.	
Customs - - -	14,000,000 00
Public lands - -	1,600,000 00
Bank dividends -	350,000 00
Arrears of direct tax and internal duties	75,000 00
Moneys recovered out of advances made in the War Department, before the 1st of July, 1815	60,000 00
Incidental receipts -	25,000 00

The expenditures of the year 1822 are estimated at - - - 14,947,661 80

Viz.	
Civil, diplomatic, and miscellaneous -	1,664,297 00
Public debt - -	5,722,857 01
Military service, including fortifications, ordnance, Indian department, Revolutionary and military pensions, arming the militia, and arrearages prior to the 1st of January 1817 - - -	5,108,097 52
Naval service, including the gradual increase of the Navy	2,452,410 27

The receipts of the year will, therefore, exceed the estimated expenditure, by \$1,162,338 20

Which, after discharging the difference between the balance in the Treasury on the 1st of January, 1822, and the balance of appropriations chargeable upon it, will leave in the Treasury, on the 1st of January, 1823, a balance estimated at \$671,375 50.

It is, however, proper to state, that, in the estimate for the naval service, only \$200,000 of the annual appropriation of \$500,000 for the gradual increase of the Navy is included; but that, of the amount estimated by the Secretary of War, a sum larger than the balance of that appropriation is for arrearages for Revolutionary pensions and the Indian department, which will not be embraced in the estimates for the year 1823.

The expenditure of the two succeeding years, it is believed, will not exceed that of the year 1822, unless a further expenditure shall, in the intermediate time, be authorized by law. But, in the expenditure of the year 1822, and also of 1823 and 1824, no part of the annual appropriation of ten millions of dollars, constituting the Sinking Fund, is comprehended, except what is necessary to discharge the interest of the public debt, and the reimbursement of the six per cent. deferred stock. On the 1st of January, 1825, and the three succeeding years, the debt contracted during the years 1812, 1813, 1814, and 1815, becomes redeemable at the will of the Government. These sums greatly exceed the amount of the Sinking Fund appli-

DECEMBER, 1821.

Assistant Doorkeeper—Death of Mr. Trimble.

H. OF R.

cable in those years to the redemption of the public debt. As the current value of the five per cent. stock, created during the last and present years, exceeds that of the seven per cent. stock, and of the six per cent. stock of 1812 and 1813, it is presumed that the holders of those stocks will be disposed to exchange them for an equal amount of five per cent. stock, redeemable at such periods as to give full operation to the Sinking Fund, as at present constituted. According to this view of the subject, twenty-four millions of the stocks which will be redeemable in the years 1825 and 1826, may be exchanged for five per cent. stock, redeemable—one-third on the 1st of January, 1831, and one-third on the same days of 1832 and 1833. This exchange of six per cent. stock, if effected on the 1st of January, 1823, will produce an annual reduction of the interest of the public debt, from that time to the first-mentioned period, of two hundred and forty thousand dollars, and an aggregate saving, through the whole period, of two millions one hundred and sixty thousand dollars. If the whole of the seven per cent. stock should be exchanged, the saving will be considerably increased.

If such an exchange of stock should be deemed expedient and practicable, a saving of equal, if not greater extent, may be effected in the years 1825, 1826, 1827, and 1828, by borrowing, at the rate of five per cent. in the first and each successive year, a sum equal to the difference between the amount redeemable and that portion of the Sinking Fund applicable to its redemption; the five per cent. stock, so created, to be redeemable at such periods as to give full operation to the Sinking Fund, until the whole of the public debt shall be redeemed. If the five per cent. stock shall, during those years, be above par, a saving beyond that proposed to be effected by the exchange of stock in 1822 will be secured, to the extent of that difference, by the latter process.

But it is possible that the progressive increase of the revenue, which has been anticipated, and which is necessary to the full operation of the Sinking Fund, may not be realized. In that event, the public expenditure authorized by law may, after the 1st of January, 1825, exceed the public revenue.

The remedy in such case must be, first, an increase of the public revenue, by an addition to the existing impositions; or, second, a reduction of the Sinking Fund.

1. A general revision and correction of the duties imposed upon foreign merchandise seem to be required. Many of the articles which pay but fifteen per cent. ad valorem, ought, in justice, as well as policy, to be placed at twenty-five per cent., which is the duty paid upon the principal articles of woollen and cotton manufactures. The same observation is applicable to some of the articles which pay twenty per cent. ad valorem. A correction of the existing duties, with a view to an increase of the public revenue, could hardly fail to effect that object to the extent of nearly one million of dollars annually. It is highly probable, however, that an increase of duty on some of those articles might eventually cause a reduction of the revenue; but this can only take place where similar articles are manufactured in the country. In that event, domestic manufactures will have been fostered, and the general ability of the community to contribute to the public exigencies will have been proportionably increased.

2. If it should be deemed expedient to reduce the Sinking Fund, in preference to the imposition of

additional duties, it may be satisfactory to know that an annual appropriation for that object of eight millions of dollars, commencing on the 1st of January, 1825, will extinguish the whole of the public debt, exclusive of the three per cent. stock, in the year 1839. Should the Sinking Fund be reduced to eight millions of dollars, an exchange of thirty-six millions of dollars of six per cent. for five per cent. stock, may be effected in the course of the year 1822, if the present price of the latter stock should continue, without diminishing in any degree the operation of that fund in the redemption of the public debt. Such an exchange would reduce the interest annually three hundred and sixty thousand dollars.

The loan of five millions of dollars, which was authorized by the act of the 3d of March, 1821, has been obtained at an average premium of nearly 5.59 per cent., upon the issue of five per cent. stock, redeemable at the will of the Government, after the 1st of January, 1835.

All which is respectfully submitted.

WM. H. CRAWFORD.

TREASURY DEPARTMENT, Dec. 10, 1821.

ASSISTANT DOORKEEPER.

The House proceeded to the consideration of the unfinished business of yesterday in relation to the choice of an Assistant Doorkeeper.

On the second ballot the following result was declared: Whole number of votes, 167; necessary to a choice 84; of which there were—

For J. Oswald Dunn	-	-	53
Daniel Rapine	-	-	43
George Wadsworth	-	-	25
William McFarland	-	-	10
Hector Brownson	-	-	7
Scattering	-	-	29

167—no choice.

On the third ballot the following result was reported: Whole number of votes 166; necessary to a choice, 84; of which there were—

For J. Oswald Dunn	-	-	79
Daniel Rapine	-	-	50
George Wadsworth	-	-	27
William McFarland	-	-	6
Scattering	-	-	4

166—no choice.

The fourth ballot terminated as follows: Whole number of votes 161; necessary to a choice, 82; of which there were—

For J. Oswald Dunn	-	-	93
Daniel Rapine	-	-	53
George Wadsworth	-	-	11
Scattering	-	-	4

161

Whereupon, it was announced by the Speaker that J. OSWALD DUNN was elected Assistant Doorkeeper of this House.

THURSDAY, December 13.

DEATH OF MR. TRIMBLE.

After prayers had been offered by the Rev. Mr. Ryland, the Journal of yesterday was read, when a message was received from the Senate, announ-

H. OF R.

Proceedings.

DECEMBER, 1821.

cing the decease of the honorable WILLIAM A. TRIMBLE, late a member of that body from the State of Ohio.

Mr. CAMPBELL, of Ohio, moved to dispense with the order of business in this House, which was agreed to.

On motion of Mr. CAMPBELL, it was further

Resolved, unanimously, That this House will attend the funeral of the Honorable WILLIAM A. TRIMBLE, late a member of the Senate, from the State of Ohio, to-morrow, at twelve o'clock, and, as a testimony of respect for the memory of the deceased, will go into mourning, and wear crape for thirty days.

On motion, it was ordered that when this House do adjourn, it adjourn to Saturday next.

On motion of Mr. EDWARDS, of North Carolina, the House then adjourned.

SATURDAY, December 15.

Two members, to wit: from Virginia, JOHN RANDOLPH, and from Maine, WILLIAM D. WILLIAMSON, appeared, produced their credentials, were qualified, and took their seats.

Mr. PATTERSON, of New York, submitted the following resolution:

Resolved, That the Secretary of State be directed to furnish this House with such information as he may possess, of the enumeration made under the law of 14th March, 1820, directing a fourth census of the inhabitants of the United States, designating the population of the different counties in the respective States and Territories.

The resolution was ordered to lie on the table until Monday next.

Mr. COOK submitted the following resolution:

Resolved, That the Secretary of the Treasury be directed to lay before this House, a statement showing the amount of the net proceeds arising from the sale of the public lands in the State of Indiana, subsequent to the 1st day of December, 1816; in the State of Illinois, subsequent to the 1st day of January, 1819; and in the State of Missouri, subsequent to the 1st day of January, 1821, and prior to the last quarterly returns received from the land offices in those States respectively.

The resolution was ordered to lie on the table till Monday next.

Mr. SMITH, of Maryland, submitted the following resolution, viz:

Resolved, That the President of the United States be requested to cause to be laid before this House a statement, showing the number of battering cannon, mortars, and howitzers, with the several calibres of the cannon, and size of the mortars and howitzers, within each fortification of the United States.

The number of shot and their several weights, and the number of shells, and their size, within the same;

The number of gun and howitzer carriages, and mortar beds fit for service, within the same;

The number of battering cannon, their respective calibres, not in service, including those contracted for and not yet delivered;

The number of mortars and howitzers, and their dimensions, not in service;

The quantity of shot and shells in store for the same, their respective sizes and diameters;

The number of caissons fit for service;

The number of new carriages constructed for the guns in the forts or for the new fortifications;

The number of cannon, mortars, and howitzers, their calibres and size, required for the old fortifications, and fully to supply the new fortifications lately finished, and those now building;

And an estimate of the amount required to provide all the cannon, mortars, howitzers, their shot and shells, carriages, and beds for the same and for caissons, for the present army, that may be deemed necessary;

The number of field pieces in service, with their several calibres, and the shot prepared for the same, and whether any addition to those are deemed necessary, and, if so, what number, their several calibres, and an estimate of their cost.

The resolution was ordered to lie on the table until Monday next.

Mr. WALWORTH submitted the following resolution:

Resolved, That the Military Committee be instructed to inquire into the expediency of discontinuing the daily allowance of ardent spirits to soldiers in the Army of the United States.

The resolution was read, and the question taken, "Will the House agree to the same?" and determined in the negative.

Mr. HILL submitted the following resolution, viz:

Resolved, That the Secretary of the Treasury be directed to report to this House whether the Indian title has been extinguished by the United States to any lands, the right of soil in which has been or is claimed by any particular State, and, if so, the conditions upon which the same has been extinguished.

The resolution was ordered to lie on the table until Monday next.

Mr. MOORE, of Pennsylvania, submitted the following resolution, viz:

Resolved, That an additional standing committee be appointed, consisting of seven members, to be denominated the Committee on Indian Affairs.

The resolution was ordered to lie on the table until Monday next.

On motion of Mr. SAWYER, the Committee of Commerce were instructed to inquire into the expediency of abolishing such offices of the customs as are reported by the Secretary of the Treasury, in his letter to this House, transmitted the third of December, 1818, proper to be suppressed, from their unproductiveness, the inconsiderable services rendered, or from any other cause.

Mr. RICH submitted the following resolution, viz:

Resolved, That the Secretary of the Treasury be instructed to report to this House a statement showing the quantity of wool imported into the United States during the years 1817, 1818, 1819, and 1820, and the three first quarters of 1821, together with the aggregate value upon which, in each year, the duties have been charged.

The resolution was ordered to lie on the table until Monday next.

On motion of Mr. WOOD, the Committee on the Public Lands were instructed to inquire into

DECEMBER, 1821.

Sick and Disabled Seamen—Indian Treaties.

H. OF R.

the expediency of requiring the surveyor generals of the United States to give security for the faithful disbursement of the public moneys with which they may be intrusted for the purpose of paying the surveyors and others employed in surveying the public lands within their several districts respectively.

On motion of Mr. SIBLEY, the report made on the 12th of May, 1820, by a select committee appointed to inquire whether any, and, if any, what, further provision may be necessary to give effect to the conditions contained in the treaty made at Brownstown, in the Territory of Michigan, was referred to the Committee on Roads and Canals.

Mr. CANNON, of Tennessee, moved that the House do now take into consideration the resolution by him submitted on Tuesday last, in relation to the militia and army; which motion, on a division of the House, was lost—yeas 72, nays 55.

On motion of Mr. Woodcock, the Committee of Revisal and Unfinished Business were instructed to inquire into the expediency of reviving and continuing in force an act, entitled "An act authorizing the payment of certain certificates," passed the 13th of April, 1818, which said act expired on the 13th of April, 1820.

Mr. Cook submitted the following resolution, viz:

Resolved, That the Committee on the Judiciary be instructed to inquire whether any, and, if any, what, alterations are necessary to be made in the organization of the courts of the United States, so as more equally to extend their advantages to the several States.

The resolution was ordered to lie on the table.

On motion of Mr. JOHNSON, of Louisiana, the Committee on the Public Lands were instructed to inquire what provision is necessary for the adjustment of claims to land in the district lying between the Rio Honde and the Sabine river, in the State of Louisiana, whose titles were derived from the Government of the province of Texas, one of the internal provinces of New Spain; and what provision is necessary by law in favor of those who had settled within that district previous to the date of the ratification of the late treaty with Spain.

On motion of Mr. SIBLEY, the Committee on Military Affairs were instructed to inquire whether any, and, if any, what, amendments are necessary to be made to the act, entitled "An act relating to the ransom of American captives of the late war," passed the 1st day of March, 1817, in order to give effect to the provisions thereof.

On motion of Mr. BUCHANAN, the Committee on Roads and Canals were instructed to inquire whether any, and, if any, what, measures should be adopted by the Government of the United States for the purpose of aiding the Chesapeake and Delaware Canal Company, and enabling them to accomplish the purpose for which they were incorporated.

Mr. PLUMER submitted the following resolution, which was read the first time, and passed to a second reading:

A resolution providing for the distribution of certain documents printed by order of Congress.

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of State be instructed to furnish to each member of the present Congress, and the delegates from Territories, (who may not be entitled to the same under the resolution of Congress of the 27th of March, 1818,) the President and Vice President of the United States, the Executive of each State and Territory, the Attorney General, and Judges of the Courts of the United States, and the Colleges and Universities in the United States, each one copy; for the use of each of the Departments, viz: State, Treasury, War, and Navy, two copies each; for the use of the Senate, five copies; and for the use of the House of Representatives, ten copies; of the secret journals, and of the foreign correspondence, ordered to be printed by the several resolutions of Congress, passed on the 27th of March, 1818, and of April 21st, 1820.

SICK AND DISABLED SEAMEN.

Mr. S. SMITH called for the consideration of two resolutions that he had submitted to the House on Tuesday last in the following words:

"1. *Resolved*, That the Secretary of the Treasury be directed to report to this House a statement showing the amount annually received under the act for the relief of sick and disabled seamen, during the years 1817, 1818, 1819, and 1820; and the annual expenditures for the same during those years.

"2. *Resolved*, That the commissioners of the navy hospitals be directed to report to this House a statement showing the annual receipts of the navy hospital fund, and the balance that remains in their hands unexpended."

Mr. S., in stating the object of these resolutions, took a brief review of the rise and progress of the funds for the relief of sick and disabled seamen, and explained how the fund derived from seamen in the merchant service had been applied for the relief of sick and disabled seamen generally, whilst that derived from the seamen in the navy had been preserved for purposes peculiar to the navy. The consequence was, that the former fund, in consequence of the whole charge of providing for sick and disabled seamen falling on it, is regularly deficient, and Congress is obliged every year to make appropriations to eke it out; whilst of the navy hospital fund about \$120,000 have accumulated, no part of which had been yet applied to any object, though destined for a particular purpose—the erection of a navy hospital, &c. The object of the Committee of Ways and Means, at whose instruction these resolutions were moved, was to inquire into the expediency of amalgamating these funds, so as for the future to bring them all into one; with a view to which purpose, they required the information embraced by the resolutions.

After a few words from Mr. Wood, expressive of his acquiescence in this course, as agreeing with that he had himself contemplated,

The resolutions were agreed to.

INDIAN TREATIES.

Mr. GILMER submitted the following resolutions:

Resolved, That the several treaties made by the United States with the Indian tribes, which may fur-

nish matters for legislation or the consideration of Congress, be referred to the committee appointed to inquire into the expediency of occupying the Columbia river, &c., and of regulating the trade with the Indian tribes.

Resolved, That the articles of agreement and cession between the United States and the State of Georgia, entered into on the 24th of April, 1802, be referred to the same committee, with instructions to report whether the same have been executed according to the terms thereof; and, also, the best means, in the opinion of the committee, of executing said articles of agreement.

Mr. MOORE, of Pennsylvania, moved that the same be laid upon the table. Mr. M. stated his object to be to refer the subject to a select committee.

The motion was opposed by Messrs. GILMER, COCKE, and MALLARY, on the ground that it was inexpedient to multiply committees, especially when those already raised were clothed with powers sufficiently extensive to embrace the subjects that were submitted for reference. The subject now suggested was within the scope of duties specially assigned to the select committee to whom it was proposed to refer it; and it was therefore improper to postpone it for the purpose of giving it a different direction. It was also contended that the resolution now submitted had no relation to the general subject of intercourse with the Indian tribes. They were not parties to the objects it has in view; but it refers to treaties which have been made with them, involving the interests of particular States, and more particularly of the State of Georgia.

Mr. TOMLINSON supported the motion, and remarked that no evil could result from the motion before the House. It had been usual heretofore to raise a committee on the subject of Indian affairs; but no such committee had as yet been raised during this session, and he understood the object of the honorable mover to be, to have the resolution laid on the table, to be disposed of hereafter as might be deemed expedient. That a committee of the description alluded to, should be raised for the purpose of taking into consideration our intercourse with the Indians, as also the subjects of trade and civilization, he could entertain no doubt; and he hoped the resolution would be laid on the table that such a disposition may hereafter be made of it as propriety may require.

The question was thereupon taken, and the motion of Mr. MOORE prevailed—yeas 67, nays 52.

AMENDMENT TO THE CONSTITUTION.

Mr. WHITMAN submitted the following proposition of amendment to the Constitution of the United States, viz:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following amendment to the Constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid, to all intents and purposes, as part of the said Constitution, to wit:

That, for the purpose of choosing Representatives to the Congress of the United States, each State shall, by its Legislature, be divided into a number of districts, equal to the number of Representatives to which such State may be entitled. The districts shall be formed of contiguous territory, the exterior limits of which shall be as nearly equidistant from a common centre as may be, and composed of a population equal in numbers, as near as may be practicable, to the number of the population entitled by the apportionment for the time being to elect one Representative. In each district, so formed, the persons qualified to vote, shall elect one Representative. The division of States into districts, hereby provided for, shall take place immediately after the adoption of this amendment, and immediately after every future census and apportionment of Representatives thereupon; and such districts shall not be at any other time, or on any other occasion, altered or varied.

That, for the purpose of choosing Electors of President and Vice President of the United States, the persons qualified to vote for Representative in each district shall choose one Elector. The two additional Electors to which each State is entitled, shall be appointed in such manner as the Legislature thereof may direct. The Electors who may be convened at the time and place prescribed by law, for the purpose of voting for President and Vice President of the United States, in case of the non-attendance of any one or more of those elected, or, in case of a vacancy otherwise happening, shall choose an Elector or Electors to supply such vacancy.

The resolution was ordered to lie on the table.

REVOLUTIONARY PENSIONS.

An engrossed bill to revive the act to provide for persons who were disabled by known wounds received in the Revolutionary war, was read the third time, when the SPEAKER put the question, Shall this bill pass?

Mr. BUTLER suggested an amendment extending the provisions contained in the bill, which he thought necessary for the purpose of saving time and expense to the United States, and at the same time for carrying more fully into effect the object which it contemplated.

Mr. BUTLER moved that the bill be recommitted for the purpose of being extended conformably to his proposition.

Mr. RHEA opposed the motion.

Mr. RICH was opposed to the principle of the bill, but was in favor of the recommitment.

The question on the motion for recommitment was then put and agreed to.

MONDAY, December 17.

Another member, to wit: from North Carolina, THOMAS H. HALL, appeared, produced his credentials, was qualified, and took his seat.

Mr. STEWART presented a petition of sundry inhabitants of the State of Maryland, praying for the aid and patronage of the General Government, in a plan therein suggested, for improving the navigation of the river Potomac; which petition was referred to the Committee for the District of Columbia.

Mr. RANKIN, from the Committee on the Pub-

DECEMBER, 1821.

Proceedings.

H. OF R.

lic Lands, reported a bill to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same; which bill was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of sundry merchants of Baltimore, respecting vessels sunk in the harbor of that city, accompanied by a bill for their relief; which bill was read twice, and committed to a Committee of the Whole.

On motion of Mr. SCOTT, the Committee on the Judiciary were instructed to inquire into the expediency of providing by law for the extension to, and due execution of, the laws of the United States within the State of Missouri, and for the organization of a district court therein, and for the appointment of a judge, marshal, and district attorney of the United States.

Mr. FLOYD submitted the following resolution, viz :

Resolved, That the Secretary of the Department of the Navy be required to report to this House the probable increase of expense in causing an examination to be made of the different harbors belonging to the United States on the Pacific ocean, and of transporting artillery to the mouth of the Columbia river.

The resolution was ordered to lie on the table until to-morrow.

On motion of Mr. MOORE, of Pennsylvania, the House proceeded to consider, and agreed to, the resolution submitted by him on the 15th instant, for the appointment of an additional standing committee, to consist of seven members, to be denominated *The Committee on Indian Affairs*. Mr. MOORE of Pennsylvania, Mr. METCALFE, Mr. BAYLY, Mr. HALL, Mr. SPENCER, Mr. MITCHELL of Pennsylvania, and Mr. BIGELOW, were then appointed the said committee.

The joint resolution submitted by Mr. WHITMAN, on the 15th instant, proposing an amendment to the Constitution of the United States in relation to the election of Representatives to Congress, and of Electors of President and Vice President of the United States, was read twice, and committed to the Committee of the whole House on the state of the Union.

Mr. WRIGHT laid before the House an attested copy of a resolution passed by the General Assembly of the State of Maryland, complaining of the protection afforded by the citizens of Pennsylvania to the slaves of the citizens of Maryland, who abscond and go into that State, and declaring that it is the duty of Congress to enact such a law as will prevent a continuance of the evils complained of; which resolution was referred to the Committee on the Judiciary.

A Message was received from the PRESIDENT OF THE UNITED STATES, which was read, as follows:

To the House of Representatives of the United States :

I transmit to Congress a letter from the Secretary of the Treasury, enclosing the report of the commissioners appointed in conformity with the provisions of an "Act to authorize the building of lighthouses there-

in mentioned, and for other purposes," approved the 3d of March, 1821

JAMES MONROE.

WASHINGTON, Dec. 15, 1821.

The said Message and documents were referred to the Committee on Commerce.

Another Message was also received from the PRESIDENT OF THE UNITED STATES, which was read, as follows :

To the House of Representatives of the United States :

By a resolution of Congress, approved on the 27th of March, 1818, it was directed that the journal, acts, and proceedings of the Convention which formed the present Constitution of the United States, should be published under the direction of the President of the United States, together with the secret journals of the acts and proceedings, and the foreign correspondence (with a certain exception) of the Congress of the United States, from the first meeting thereof down to the date of the ratification of the definitive Treaty of Peace between Great Britain and the United States, in the year 1783, and that one thousand copies thereof should be printed, of which one copy should be furnished to each member of that (the fifteenth) Congress, and the residue should remain subject to the future disposition of Congress.

And by a resolution of Congress, approved on the 21st April, 1820, it was provided that the secret journal, together with all the papers and documents connected with that journal, and all other papers and documents heretofore considered confidential, of the Old Congress, from the date of the ratification of the definitive treaty of the year 1783, to the formation of the present Government, which were remaining in the office of the Secretary of State, should be published, under the direction of the President of the United States, and that a thousand copies thereof should be printed and deposited in the Library, subject to the disposition of Congress.

In pursuance of these two resolutions, one thousand copies of the journals and acts of the Convention which formed the Constitution, have been heretofore printed and placed at the disposal of Congress, and one thousand copies of the secret journals of the Congress of the Confederation, complete, have been printed, two hundred and fifty copies of which have been reserved to comply with the direction of furnishing one copy to each member of the fifteenth Congress, the remaining seven hundred and fifty copies have been deposited in the Library, and are now at the disposal of Congress.

By the general appropriation act of 9th April, 1818, the sum of ten thousand dollars was appropriated for defraying the expenses of printing done pursuant to the resolution of the 27th of March, of that year. No appropriation has yet been made to defray the expenses incident to the execution of the resolution of 21st April, 1820; the whole expense hitherto incurred in carrying both resolutions into effect has exceeded, by five hundred and forty-two dollars fifty-six cents, the appropriation of April, 1818. This balance remains due to the printers, and is included in the estimates of appropriation for the year 1822. That part of the resolution of the 27th March, 1818, which directs the publication of the foreign correspondence of the Congress of the Confederation, remains yet to be executed, and a further appropriation will be necessary for carrying it into effect.

JAMES MONROE.

WASHINGTON, Dec. 16, 1821.

The Message was referred to the Committee of Ways and Means.

Mr. COOK moved to consider the resolution he had the honor to submit, (relative to Illinois and Indiana lands,) which motion was agreed to; and the resolution having been considered, was adopted.

Mr. PATTERSON, of New York, called for the consideration of the resolution by him submitted on Saturday last, (relative to the census.)

Mr. CAMPBELL, of Ohio, proposed to amend the same, by striking out all that part of the resolution which follows the words, "the United States," which was assented to by the mover; and thereupon the resolution, as amended, was adopted.

Mr. HILL moved to proceed to the consideration of the resolution offered by him on Saturday last, (relative to the extinguishment of titles to Indian lands.)

The House agreed to consider the same, when Mr. EUSTIS moved to amend the resolution, by requesting information on the subject-matter of the resolution from the President of the United States, which being assented to by the mover, the resolution, as amended, was adopted.

INDIAN TREATIES.

On motion of Mr. GILMER, the House proceeded to the consideration of the resolution submitted by him on Saturday last, respecting certain Indian treaties; which resolution he so modified as to propose the reference of the subject to a select committee.

Mr. RANKIN was in favor of referring the subject to the standing committee on Indian Affairs.

This motion was opposed at considerable length by Mr. GILMER. Finally, however, his motion was so modified by himself as to read as follows:

1. *Resolved*, That a committee be appointed to take into consideration the treaty made by the United States with the Creek nation of Indians, made on the 8th of August, 1814, and the treaties made by the United States and the Cherokee nation of Indians, on the 8th July, 1817, and the one made 29th February, 1819.

2. *Resolved*, That the articles of agreement and cession between the United States and the State of Georgia, entered into the 24th of April, 1802, be referred to the said committee, with instructions to report whether the same have been executed according to the terms thereof; and also the best means, in the opinion of the committee, of executing said articles of agreement.

In this shape the resolutions were adopted, and MESSRS. GILMER, RANDOLPH, BARSTOW, MORGAN, BLAIR, SWAN, and MCSHERRY, were appointed a committee pursuant to the first resolution.

MILITIA AND REGULARS.

Mr. CANNON called for the consideration of the resolutions he had submitted on the 11th instant, relative to the militia, the army, and corps of cadets.

Mr. WALWORTH proposed to divide the question, so as first to take up the three first resolutions that were submitted by the mover. This motion was agreed to; and after some discussion between MESSRS. RANKIN and CANNON, the first resolution, on motion of Mr. WOOD, was ordered to lie on the table.

The second resolution was adopted in the words following:

Resolved, That a select committee be appointed on the subject of the Militia, whose duty it shall be to inquire into the expediency of organizing and providing for the improvement, in discipline, of the militia of the different States and Territories, and that said committee have leave to report by bill or otherwise.

The third resolution, relating to an increase of the annual appropriation for organizing the militia, being under discussion, Mr. WALWORTH moved to strike out the words "Ways and Means," and to insert the words "Military Affairs." He considered this resolution so intimately connected, in its nature, with that which immediately preceded it, that it should be referred to the same committee.

The motion was opposed by Mr. CANNON, and negatived; and the resolution was thereupon adopted, as moved by Mr. C.

On motion to take into consideration the remainder of Mr. C.'s resolutions, the question was taken and lost—ayes 51, noes 61. So the House refused to consider them.

MESSRS. CANNON, FINDLAY, McCARTY, WILLIAMSON, JOHN T. JOHNSON, ARTHUR SMITH, and SANDERS, were appointed a committee on the subject of the Militia, in pursuance of the said second resolution.

IMPORTATION OF WOOL.

Mr. RICH moved that the House proceed to the consideration of the resolution by him submitted on Saturday last, relative to the importation of wool into the United States.

Mr. R. proposed to amend the resolution by adding thereto the following words:

"Also the quantity exported from the United States during the above mentioned periods, and the countries or places to which exported."

This addition was agreed to.

Mr. EUSTIS moved to amend the resolution, by requesting information in such cases from the President of the United States, instead of the heads of departments, and proposed that the resolution now before the House be so amended as to conform to that principle. The mover assented to the amendment; whereupon,

Mr. RANDOLPH remarked, that he was opposed to the rule which had just been laid down with regard to this subject. It would, in his opinion, lead to serious difficulties and embarrassments. To pack off two members of this body to the President's house, whenever petty details of the Treasury—of the Post Office department, or concerning the importation of wool was required, would be derogatory to the dignity of the House, and perhaps equally inconvenient to the personage of whom the information was to be sought.

Mr. RICH observed, that the observations of the honorable gentleman from Virginia had created doubts in his mind with regard to the proper channel through which the necessary information should be obtained. He, therefore, moved that the further consideration of the resolution be postponed, and that the same lie on the table.—Carried.

DECEMBER, 1821.

Transactions at Pensacola.

H. OF R.

FUGITIVES FROM LABOR.

Mr. WRIGHT submitted a resolution, which, after being modified at the suggestion of Mr. LATHTROP, was read in the following words:

Resolved, That a committee be appointed to inquire into the expediency of providing, by law, more effectually to protect the rights of those entitled to the service or labor of persons in one State, under the laws thereof, escaping into another, and for their delivery to their rightful owners, agreeably to the provisions of the Constitution.

Mr. CAMPBELL, of Ohio, moved to amend the same, so as to refer it to the Committee on the Judiciary, instead of a select committee.

A discussion ensued on the question of reference, in which Messrs. WRIGHT and S. SMITH opposed, and Messrs. TOMLINSON and MOORE supported the amendment, which was put and carried—ayes 70, noes 60. [In the course of the discussion, Mr. WRIGHT warmly deprecated the interference of Quakers and others to prevent the reclamation of slaves in some of the States, and hinted that, if effectual means were not taken to secure the rights of the Southern States in this particular, he did not know but they might be driven to take up arms to protect them. Mr. CAMPBELL and Mr. TOMLINSON did not oppose the reference of the subject, but argued that references to standing committees were preferable, when the subjects naturally belonged to a committee of that description.]

The resolution was thereupon adopted.

ORDNANCE AND MILITARY STORES.

Mr. S. SMITH moved that the House now proceed to the consideration of the resolution submitted by him on Saturday last, in relation to an inquiry into the present state of the ordnance and military stores of the United States.

The House agreed to consider the same; whereupon—

Mr. SMITH remarked that, five or six years ago, the Committee of Ways and Means, on application of the War Department, had proposed an appropriation for the purchase of cannon for the use of the United States. It was thought best, however, at that time, to postpone the subject until the price of labor should be reduced to a peace standard. The enormous prices which the commotions of Europe had raised, were now fallen; and it was believed that the period had arrived when the standard contemplated was to be taken advantage of. It was with that view, and under such impressions, that he had thought it his duty to bring forward the motion. His intention was, if the House of Representatives should vote a sum adequate to this object, to propose to divide it into as many years as may be requisite, in the whole, to supply the wants of the United States. This course, he believed, would be far preferable to an annual appropriation. Were it practicable to make contracts of this prospective character, the founders would be able to furnish the cannon at a rate much cheaper than when they were to fit up their foundries for the pur-

poses of casting upon the contingency, without the certainty of annual appropriations.

The resolution was thereupon adopted, and Messrs. SMITH and EUSTIS were appointed a committee to lay the same before the President of the United States.

TRANSACTIONS AT PENSACOLA.

Mr. WHITMAN called for the consideration of the resolution by him submitted on the 11th instant, requesting information from the Secretary of State relating to the late transactions at Pensacola, &c.

The House agreed to consider the same; when Mr. POINSETT moved to amend it, by limiting the information called for to such as the President may think proper to communicate.

Mr. WHITMAN assented to the amendment.

Mr. RANDOLPH moved to insert the word "information" in lieu of the word "correspondence," which was assented to.

Mr. EDWARDS, of North Carolina, moved that the resolution be laid on the table. He thought it more respectful to the President of the United States to wait for the information on the subject, which it was doubtless the intention of the Executive to communicate. The message that had been delivered at the commencement of the session referred to the matter in question in very clear and explicit terms. Mr. E. referred to that document to show that it had been announced as the intention of the Executive to communicate further information on the subject to Congress. Mr. E. thought it, therefore, a matter of proper courtesy and decorum for this House to wait until the President should think proper to make it a subject of special communication.

Mr. WRIGHT made a few remarks on the subject, which, from his position in the House, the reporter could not hear.

Mr. WHITMAN opposed the motion. At the first reading of the President's Message, he had entertained the same opinion which his honorable friend from North Carolina (Mr. EDWARDS) had expressed. But, on further examination, he had found it impossible to determine whether the matters of an unpleasant nature, to which the President referred, were of the same character with those contemplated by the resolution. The facts alluded to in the message were general and undefined. Those included in the resolution were particular and specific. It could, not therefore, be disrespectful to ask for information on a subject that it was impossible to say had been even alluded to in the President's Message. But the resolution called for information not only in regard to the controversy between General Jackson and Judge Fromentin, but it was contemplated to extend it to an inquiry into the causes that led to the issuing of an order by the Governor of the Floridas for the removal of certain persons from that territory, which, to say the least of it, is in its character novel. Mr. W. knew of no law that justified a sentence of banishment, even by the Executives of sovereign States; still less could he comprehend the justifiable exercise of such a power by the

created head of a dependent Territory. Such a sentence might perhaps be allowed as a punishment, when resulting from a conviction by the verdict of peers, or a trial before a court on the charge of a crime, but he knew of no authority that could justify such a sentence, as a matter of political expediency, depending on the Executive will. When, therefore, the subject was fairly discussed, Mr. W. was satisfied it would be found that the resolutions he had submitted were of a character altogether respectful to the President of the United States; that they were confined to distinct and definite objects; that the Message had been for some time before the House, and that no special communication on the specific subjects alluded to had been made, and that it was fairly inferrible that the message and the resolutions had different objects in view. He therefore thought the subject to be of sufficient importance to entitle it to the immediate attention of the House.

Mr. BALDWIN suggested that it was evident, from the tenor of the message, that this was a subject to which the President of the United States had not been inattentive. It might be, that it had become a subject of negotiation with the Spanish Government—and this was perhaps the reason why it had not been presented to the consideration of the House subsequent to the message. The Spanish Minister had not yet arrived at the seat of Government—and possibly it was owing to this circumstance that the President had not communicated the papers in this case to the House. Upon the whole, he thought it advisable for the House not yet to act on the subject.

Mr. ARCHER hoped the gentleman from North Carolina would withdraw his amendment—at least for a few moments, to give opportunity to the mover to present a modification.

Mr. EDWARDS assented, and Mr. W. proposed a further modification of his motion.

Mr. WILLIAMS, of North Carolina, moved to strike out of the resolve the words "as he may think proper to communicate," and to insert in lieu thereof the words—"as he may possess." Carried.

Mr. EDWARDS then renewed his motion that the resolution lie on the table, for the reasons he had before stated.

This motion was supported by Mr. CANNON, and opposed by Mr. FLOYD, when, the question being taken, the motion of Mr. EDWARDS prevailed; and the resolution was ordered to lie on the table.

On motion of Mr. JOHNSTON, of Louisiana, the Committee of Commerce were instructed to inquire into the expediency of erecting lighthouses on the coast of Florida; and to consider what other measures it may be necessary to adopt to give greater security to the navigation of the Gulf Stream.

TUESDAY, December 18.

Another member, to wit: from Maryland, THOS. BAYLY, appeared, produced his credentials, was qualified, and took his seat.

Mr. STEWART presented a petition of sundry inhabitants of the State of Pennsylvania, praying that the aid and patronage of the General Government may be extended to a plan therein detailed for improving the navigation of the Potomac river.

Mr. RANKIN, from the Committee on the Public Lands, who were instructed, on the 6th instant, to inquire into the expediency of extending the duration of the act of 2d March, 1821, for the relief of purchasers of public lands, reported a bill for the relief of certain purchasers of public lands; which was read, and committed to a Committee of the Whole to-morrow.

Mr. NEWTON, from the Committee of Commerce, reported a bill for the relief of Samuel Clarkson and Alexander Elmslie; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. TRIMBLE submitted the following resolution, viz:

Resolved, That the President of the United States cause this House to be informed whether the commissioners appointed to lay out the continuation of the Cumberland Road from Wheeling, in the State of Virginia, through the States of Ohio, Indiana, and Illinois, to the Mississippi river, have completed the same, and, if not completed, the reason why their duties have been suspended.

The resolution was ordered to lie on the table until to-morrow.

The joint resolution submitted by Mr. PLUMER, of New Hampshire, providing for the distribution of the Secret Journal and Foreign Correspondence of the Congress under the Confederation, and of the Journal of the Convention which formed the Constitution of the United States, was modified by the mover, and read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. TRIMBLE submitted the following resolutions, viz:

1. *Resolved*, That the Committee on Roads and Canals be instructed to inquire into the expediency of providing by law for the repair and preservation of the Cumberland road, and for the establishment of toll gates thereon.

2. *Resolved*, That the same committee be instructed to inquire whether any, and, if any, what, further provision ought to be made by law to enable the President of the United States to complete the survey and location of the proposed continuation of the Cumberland road from Wheeling, in the State of Virginia, through the States of Ohio, Indiana, and Illinois, to the Mississippi river; and whether any, and, if any, what, provision ought to be made to enable the President to cause the said road to be constructed.

The resolutions were ordered to lie on the table.

On motion of Mr. MOORE of Alabama, the Committee of Commerce were instructed to inquire into the expediency of making the town of Blakeley, on the bay of Mobile, in the State of Alabama, a port of entry.

Mr. FLOYD called for the consideration of the resolution he had heretofore submitted for an inquiry into the expense of transporting cannon, &c., to the mouth of Columbia river.

DECEMBER, 1821.

Revolutionary Pensions.

H. OF R.

The motion was agreed to by the House, when, Mr. FLOYD observed that perhaps some expense might be incurred by this proposition; but it was his impression that the cannon might be conveyed as ballast at a small expense, either in merchant vessels, or in vessels of war which the importance of our trade in that sea had rendered it expedient to station in that quarter, to an extent that should be adequate to our wants in the establishment of the contemplated post at the mouth of Columbia river.

The resolution was adopted.

Mr. RICH called for the consideration of the resolution by him submitted on a former day relative to the importation and exportation of wool.

The House agreed to consider the same, and the question being on the motion to strike out that part thereof requesting the President of the United States to cause information to be given, &c., and to insert in lieu thereof the words "that the Secretary of the Treasury be instructed to report"—the amendment, being supported by the mover, was carried, and the resolution adopted.

The order of the day was then taken up, and, on motion of Mr. RANKIN, the House resolved itself into a Committee of the Whole on the bill, entitled "An act for paying to the State of Missouri three per cent. of the proceeds of the sales of public lands in the same"—Mr. HILL in the chair,

The bill was supported by Mr. RANKIN; and, no amendment having been offered to the same, the Committee rose, and reported the bill to the House, who concurred therein, and ordered the same to be engrossed, read the third time, and made the order of the day for to-morrow.

REVOLUTIONARY PENSIONS.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to which was recommitting the bill to revive and continue in force an act, entitled "An act to provide for persons who were disabled by known wounds received in the Revolutionary war," reported the same with an amendment.

Mr. COCKE thought the provision contained in the bill relative to the security to be required of the agents to whom is committed the disbursement of the public money, was inadequate to the object. Further observations were made on the subject by Messrs. WALWORTH and RHEA, when

Mr. HARDIN remarked that he was glad the attention of the House had been called to the subject by his friend from Tennessee, (Mr. COCKE.) It had become matter of serious concern, and a proper subject for the interposition of that House. A case had fallen under his special observance in which a district paymaster was a defaulter, and had failed for the sum of three hundred and seventy-four thousand dollars, when the only bonds that he had given for the faithful discharge of his duty amounted only to sixty thousand dollars in the aggregate. He believed that in nineteen cases out of twenty the penal bonds that had been taken, in cases of defaulters, had been inadequate to the public security. He was altogether opposed to taking penal bonds in any case. He preferred a

bond that should be limited by no precise sum, but should extend to a full indemnity for every extent of delinquency. He would therefore propose to amend the bill, so as to require bonds, without penalty, for the due discharge of the duties imposed, instead of bonds for a specific sum, so as that the Government might recover of sureties the whole amount which it might lose by the neglect or misconduct of the principal.

Mr. COCKE would cheerfully acquiesce in any measure that should be more effective in attaining the object in view, than that he had suggested; he therefore assented to Mr. H.'s proposition.

Mr. RHEA opposed the amendment, but his remarks could not be heard by the reporter.

Mr. TUCKER, of Virginia, was in favor of the general object which the mover had in view, but doubted the expediency of introducing it in the present bill. He thought that this was not a proper time, especially as it would operate unfavorably on the objects of the public bounty. It was now the practice in those States where there were such banks as the Government thought proper to intrust with the deposit, to lodge with them the sums necessary to meet the payment of these pensions. In other States he believed the semi-annual claims of invalid pensioners were not of an amount too great for the security of five thousand dollar bonds. If the amendment should be adopted, he feared it would occasion a very serious inconvenience to the pensioners, as they might be under the necessity of obtaining their payments in the city of Washington, instead of receiving them in the States to which they belonged, for the banks would never give bond for so small an object as this temporary deposit.

Mr. HARDIN could foresee no such difficulty as the gentleman from Virginia seemed to apprehend. The security required by his proposition would never be more extensive than the possible defalcation. He was willing, however, to meet the wishes of gentlemen, provided the public interest was sufficiently secured. He had drawn the amendment in haste, and should have no objection that the bill lie on the table, to the end that a plan be matured to remedy the evil that the public suffer.

Mr. TUCKER made a few remarks in reply; when

Mr. H. NELSON observed, that it was common for offenders to escape justice, and so difficult for Congress to enact laws which ingenuity could not evade, that it would certainly be inexpedient to devise a new system, without being well assured that it was reducible to practice, and efficacious to produce the result that the mover intended. It had been many years since he had been conversant with investigations of this sort, but to him it would seem that the performance of duties, as expressed in the amendment, would not be held to involve pecuniary responsibility in the disbursement of the public moneys. At any rate, it was a subject on which the acuteness and astuteness of lawyers would be able to raise questions that rarely result favorably to the public. He would therefore move that the bill be recommitting to a Committee of the Whole, to the end that its friends

may have opportunity to extricate it from all those difficulties in which it seems to be at present involved.

Mr. COOK was apprehensive that the course proposed would involve the Secretary of War in difficulties not easy to surmount; for it could hardly be supposed that he could be able to ascertain the amounts that should be deposited from time to time with the agents to meet the payment of the pensions, nor the sufficiency of the security that might be offered for the indemnity of the public.

The recommitment was opposed by Messrs. RHEA and LITTLE, and supported by Mr. WARFIELD, who adverted to the frauds that had been practised upon the United States to an extent that called loudly for a remedy. He thought the present a period as proper as any that would probably be presented during the session for taking the subject into consideration, and he hoped it would receive all that attention which its importance demanded. The question was then taken on the motion to recommit, and carried.

WEDNESDAY, December 19.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made an unfavorable report on the petition of Joseph Wheaton; which was read and ordered to lie on the table—ayes 64, noes 49.

Mr. GOLDEN submitted the following resolutions, viz:

1. *Resolved*, That the Commissioners of the Navy Hospital Fund be requested to report to this House whether all the sick and disabled seamen of the United States, who have contributed to the sums received under the acts for the relief of sick and disabled seamen, have, during the years 1817, 1818, 1819, and 1820, been relieved when they have applied for relief; and, if not, why relief in such cases has been refused.

2. *Resolved*, That the said Commissioners be requested also to report what are the existing rules and orders to the agents of the Government, which regulate the admission of sick and disabled seamen into the hospitals of the United States.

The resolutions were ordered to lie on the table until to-morrow.

Mr. FARRELY submitted for consideration the following resolve, which lies on the table:

Resolved, That the Secretary of the Treasury be instructed to lay before this House a copy of a report made by the commissioners appointed to view and inspect the Cumberland road.

The engrossed resolution providing for the distribution of the documents, &c., appertaining to the Congress of the Revolution, printed under a former resolution of Congress, was read a third time, passed, and sent to the Senate for concurrence.

Mr. MOORE, of Pennsylvania, requested to be excused from serving on the Committee on Indian Affairs, in consideration of his being a member of the Committee of Claims, the duties of which are known to be very laborious; adding, that he was not present yesterday at the moment when the Committee on Indian Affairs was announced, and

did not learn that he was appointed a member of it, until too late to make the request now submitted to the House.

The question being taken, Mr. MOORE was discharged accordingly, and Mr. MERCER appointed in his stead.

CONTESTED ELECTION.

Mr. SLOAN, from the Committee of Elections, to which was referred the memorial of Matthew Lyon, contesting the election and return of James Woodson Bates, as the Delegate in this House from the Territory of Arkansas, made report thereon, which was read, and the resolution therein submitted was concurred in by the House, as follows:

"That, by the official proclamation of the acting Governor of the said Territory, it appears that, at the election for a Delegate for the said Territory, James Woodson Bates and Matthew Lyon were candidates, and that, from the returns made by the sheriffs of the several counties, it appears, upon adding the votes given for each candidate, that James Woodson Bates had 1,081 votes, and Mathew Lyon had 1,020 votes being a majority in favor of said Bates of 61 votes, who was therefore declared to be duly elected. The petitioner states that this proclamation was founded on improper and illegal returns from several counties, which he has named in his memorial; and that, in many other counties, a large number of illegal votes were given for Mr. Bates, and that, in justice, the petitioner is entitled to the seat as Delegate from the Territory of Arkansas. He further states that he has made application to the acting Governor and Secretary of the Territory for permission to inspect the return of the election as made by the sheriff of each county, or to be furnished with a copy of such returns, but that both these requests have been positively refused; and that, inasmuch as there is no law existing in the said Territory, whereby he can compel the attendance of witnesses to testify in the case, he is induced to waive what he considers his just right, and prays that a new election may take place.

The petitioner having produced no testimony whatever in support of the allegations set forth in his memorial, the committee submit the following resolution:

"*Resolved*, That the Committee of Elections be discharged from the further consideration of the memorial and documents of Matthew Lyon, and that he have leave to withdraw his memorial."

TEMPORARY ADJOURNMENT.

Mr. BALDWIN submitted the following joint resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the Senate and Speaker of the House of Representatives be directed to adjourn their respective Houses from Saturday the 22d instant until Wednesday the 2d day of January next.

On motion of Mr. H. NELSON, the rule of the House requiring the resolution to lie on the table one day previous to its being acted upon, was dispensed with, and the resolution was twice read; and, on the question of engrossing the same for a third reading—

Mr. BALDWIN observed, that experience had

DECEMBER, 1821.

Temporary Adjournment.

H. OF R.

shown, for the last four years, that very little business was done in Congress during what are termed, in common parlance, the Christmas Holidays. Some members were absent on business, and others availed themselves of that opportunity to visit their families; so that it has been found impracticable to carry on, to any considerable extent, the business of legislation during that period. He was, therefore, in favor of doing that in form which had been uniformly done in practice. In the mean time, the committees might meet, and arrange and prepare the business before them; and he believed that the resolution would rather facilitate the public business than retard it.

Mr. RHEA opposed the resolution. He thought the proper course was, if gentlemen wished to absent themselves, to ask leave of the House. For his part, he came here to do business, and there was much to do—and he hoped the gentleman from Pennsylvania (Mr. BALDWIN) would not insist upon the committees' staying here to make up reports, while the other members were gone upon excursions of pleasure into the country. He should not go into the country—for he had no where to go. The operation of the resolution, Mr. R. contended, would be unequal; for, whilst those whose residence was near this city, would be accommodated by it, others would not. If, indeed, he could go home, he should be in favor of it too. But, as there was plenty of business before the House, he thought the resolution ought not to be adopted. He, therefore, moved that it be indefinitely postponed, and that the question of postponement be taken by yeas and nays. The latter motion was agreed to.

Mr. COLDEN remarked that the resolution had the operation to suspend the business of Congress for ten days. He had intended to inquire whether, during that recess, the pay of the members was to go on. If it was, and such he understood to be the fact, he was satisfied that the measure would not meet the approbation of their constituents, for it would be manifestly unjust. If it had been the practice, as was suggested, to do no business during that period, it was certainly desirable that the practice should be abolished. Our sovereigns, the people, would not willingly consent to such a custom. Should the resolution be adopted, and some gentlemen visit their wives and families and enjoy the festivities of the social fireside, what shall those of us do, in the meantime, who have the misfortune to live too remote to participate in these enjoyments? Nor could he comprehend why it should be deemed impracticable for the House to do business during the holidays. If they received the pay of the nation during that period, it was certainly right and proper that they should perform the business which the nation had assigned them.

Mr. SMYTH, of Virginia, had generally voted with the gentleman from Tennessee, but on this occasion he was compelled to differ from him. He came here indeed to attend public business; but he had seen that it could not be well and fairly done during the holidays. Many members would unquestionably be absent; and would it be proper,

he would ask, that public business should go on and be decided in the absence of so many members? He should not avail himself of it personally, but he thought that public duty and public policy required the adoption of the resolution.

Mr. HARDIN had heard no sufficient reason assigned for adjourning in the manner proposed. It had indeed been said that no business was done during the Christmas holidays, and that it was not worth while to adjourn from day to day. His experience had been otherwise. During that period, much of the light business is got through with. Petitions are received, and reports and resolutions disposed of, and the House prepared for the more important business that is from time to time postponed to the early part of January. If, indeed, the pay of the members was to cease during the recess, that would be something. But we knew, as a matter of fact, that the pay goes on. It has been suggested, that the members would be better prepared to take up business after the holidays were over. But he could not perceive how this result could be expected; for, certainly the dissipation of adjoining cities, to which we might resort for pleasure during that period, would not much conduce to a better preparation for business. During that period, it is well understood that no call of the House is ever made. Heavy jobs are not undertaken; and there is a tacit understanding that no important business shall be acted on. Why then should we publish to the world that we have adjourned for ten days, to enjoy the pleasures of social intercourse? Mr. H. could perceive no possible advantage likely to accrue from the resolution, and was in favor of the indefinite postponement.

Mr. BALDWIN briefly replied, that he had not expected that the proposition would meet with opposition on those principles which gentlemen had assumed. He had no personal object in view, and his conscience was at ease in regard to the pay. He should probably remain here during the recess, and it had been his invariable practice to attend in the House during all its hours of business. But he was not in favor of a tacit understanding to meet and do nothing. He wished the nation to know and fully comprehend our proceedings. He would be above-board in the business; and if we were ready to do nothing during the holidays, let us boldly say so, and not resort to any implied and covert understandings. And if gentlemen were unwilling to vote in favor of the resolution, he hoped they would give punctual attendance during that period, and not be the first to go home and the last to return.

The question on the indefinite postponement of the resolution was then taken, and decided as follows:

YEAS—Messrs. Abbot, Alexander, Allen of Tennessee, Archer, Ball, Barber of Ohio, Barstow, Bassett, Bateman, Baylies, Blackledge, Blair, Borland, Brown, Buchanan, Burrows, Butler, Cambreleng, Campbell of New York, Campbell of Ohio, Cassidy, Causden, Cocke, Colden, Condict, Conckling, Conner, Cook, Crafts, Crudup, Dane, Darlington, Denison, Dickinson, Durfee, Dwight, Eddy, Edwards of Connecticut,

H. OF R.

Missouri—Three per cent. Fund.

DECEMBER, 1821.

Edwards of North Carolina, Eustis, Farrelly, Findlay, Fuller, Gebhard, Gilmer, Gist, Gross, Hall, Hardin, Harvey, Hawks, Herrick, Hill, Hobart, Holcombe, Hooks, Hubbard, F. Johnson, J. T. Johnson, J. S. Johnston, Kent, Keyes, Lathrop, Leftwich Lincoln, Litchfield, Long, McCarty, McCoy, McDuffie, McSherry, Mallary, Matlack, Matson, Mattocks, Metcalfe, Mitchell of South Carolina, Montgomery, Moore of Pennsylvania, Moore of Alabama, Morgan, Murray, Neale, Nelson of Massachusetts, Nelson of Maryland, New, Newton, Overstreet, Patterson of New York, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Rhea, Rich, Rochester, Rogers, Ross, Ruggles, Sanders, Scott, S. Smith, Arthur Smith, W. Smith, Spencer, Sterling of Connecticut, Sterling of New York, Stewart, Taylor, Thompson, Tod, Tomlinson, Tracy, Trimble, Tucker of South Carolina, Tucker of Virginia, Upham, Van Rensselaer, Van Wyck, Walworth, Warfield, Whipple, White, Whitman, Williams of North Carolina, Williamson, Wilson, Wood, Woodcock, Woodson, and Worman—134.

NAYS—Messrs. Allen of Massachus's, Baldwin, Barber of Connecticut, Bayly, Bigelow, Burton, Cannon, Cushman, Edwards of Pennsylvania, Floyd, Garnett, Gorham, Hemphill, Jackson, Jones of Tennessee, Kirkland, Little, McNeill, Mercer, Nelson of Virginia, Rankin, Reid of Georgia, Sloan, Alexander Smyth, Stevenson, Swearingen, Tatnall, Vance, Williams of Virginia, and Wright—30.

So the House determined that the said resolution be indefinitely postponed.

MISSOURI.—THREE PER CENT. FUND.

The engrossed bill providing for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of public lands within the State, was read a third time.

[The bill directs that "three per cent. of the net proceeds of the sales of the lands of the United States, lying within the State of Missouri, which, since the first day of January, 1821, have been, or hereafter may be, sold by the United States, after deducting all expenses incidental to the same, shall be paid, from time to time, to such person or persons as may or shall be authorized by the Legislature of the said State of Missouri to receive the same; which sum or sums thus paid, shall be applied to the making public roads and canals, within the said State of Missouri, under the direction of the Legislature thereof," &c.]

Mr. EUSTIS suggested a doubt, derived from the language of the report, whether the Congress had a right to prescribe to a State, the manner in which any part of her funds shall be expended.

Mr. S. SMITH submitted, that an alteration might be perhaps advantageously made in the phraseology of the bill, making it read "roads or canals," instead of "roads and canals."

Mr. SCOTT explained to the House, that the bill had been drawn up in conformity to the provisions of the third clause of the sixth section of the act authorizing the people of Missouri to form a constitution and State government, which provides that five per cent. of the net proceeds of the sales of lands within the State shall be reserved for making public roads and canals; of which three-fifths shall be applied to those objects within

the State by its Legislature, and the remaining two-fifths shall be applied, under the direction of Congress, to the construction of roads and canals leading to the State. In pursuance of those provisions, accepted by Missouri, and thus become a compact between her and the United States, this bill had been framed, &c., and required no amendment.

Mr. RANKIN further suggested that, to make the amendment proposed by Mr. SMITH, would be to change the terms of the compact, which it was not in the power of Congress, being one of the parties to it, to do.

Without further observation, the bill was passed, and sent to the Senate for concurrence.

CHAPLAIN OF THE HOUSE.

Mr. PATTERSON, of New York, laid on the table the following:

Resolved, That, in consequence of the non-attendance of the Rev. Mr. Sparks, the office of Chaplain to this House remains vacant.

Resolved, That this House will, to-morrow at twelve o'clock, proceed to the election of Chaplain.

The SPEAKER, on these resolutions being read, said he felt it the duty of the Chair to state that, on Mr. Sparks being elected Chaplain, no official notice had been given, not having been supposed necessary. On information that it was thought necessary, proper notice had been given; and the Chair had been informed this morning that the gentleman referred to had arrived in the city, and proposed to commence the discharge of the duties to which he had been called, by officiating to-morrow.

Mr. PATTERSON inquired whether any direct communication to that effect had been made to the Rev. Mr. Sparks.

The SPEAKER answered in the negative, intimating he had been informed of what he had stated by a gentleman, not a member of the House.

Mr. MONTGOMERY confirmed the fact of the Chaplain's having arrived, &c., having himself knowledge of the fact.

A motion was made to lay the resolutions on the table.

Mr. LITTLE said, he hoped that they would not be laid on the table, but would be met and negatived.

The motion to lay them on the table was negatived.

Mr. FLOYD thought the explanation given by the Speaker, was a sufficient reason for rejecting these resolves; and was also of opinion that it would be derogatory to the character of the House to adopt such resolutions.

Mr. WRIGHT adverted to the fact that Chaplains are appointed in pursuance of a joint resolution, in which the concurrence of the Senate is required, and that the Chaplains are to interchange weekly between the two Houses. It was not now more than a week since one of the Chaplains had afforded to both Houses the benefit of his prayers, and the turn of the other had scarcely come. How indecorous would it be for this House, after

DECEMBER, 1821.

Land Debtors—Revolutionary Pensions.

H. OF R.

appointing a man a Chaplain, and writing him to that effect, to vote such a proposition as this! He was sorry, he said, to see, as he thought he saw, a disposition to show more respect to one religious profession than to another, when the Constitution declares that all shall stand upon an equal footing. He hoped, he said, that every member of this House, whatever his religion, would observe that decorum which the House owed to itself as the Representative of the American people.

Mr. SMITH, of Maryland, suggested that the course proposed by these resolutions was not respectful to the Speaker of the House, after the statement which he had made—

[Here Mr. PATTERSON rose, and, to save the House further trouble, withdrew his resolves, which put an end to this discussion.]

TIME TO LAND DEBTORS.

The House then, on motion of Mr. RANKIN, resolved itself into a Committee of the Whole, to take into consideration the following bill, which was yesterday reported by the Committee on Public Lands:

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That all purchasers, and every legal holder of any certificate of the public lands of the United States, who are entitled to, and who have not availed themselves of any of the provisions of the act of Congress of the second of March, eighteen hundred and twenty-one, entitled "An act for the relief of the purchasers of public lands prior to the first day of July, eighteen hundred and twenty," be allowed until the thirtieth of September, eighteen hundred and twenty-two, to file their original certificates, and accept such other provisions of said act as are applicable to payments made after the thirtieth day of September, eighteen hundred and twenty-one, and all such lands as would be otherwise forfeited for a failure to file the Register's certificate, and an acceptance of the provisions of said act, be exempted from forfeiture and sale until the thirtieth day of September, eighteen hundred and twenty-two, and no longer.

No debate arising on this bill, and no amendment being proposed, the Committee rose and reported the same to the House; and the bill was ordered to be engrossed, and read a third time tomorrow.

Some conversation took place on the subject of the bill for the relief of sundry citizens of Baltimore, Mr. LITTLE having received additional testimony on the subject. Finally, the bill was recommitted to the Committee of Claims.

REVOLUTIONARY PENSIONS.

The House then resolved itself into a Committee of the Whole on the bill to revive and continue in force for a further time the bill providing for the relief of persons disabled by known wounds received in the Revolutionary war.

Mr. HARDIN modified his motion of yesterday so as to propose now to amend the bill by taking away the limit proposed to the security given by pension agents, leaving the amount of the bond discretionary with the Secretary of War, and to add a proviso that nothing in the act should be so

construed as to prevent a recovery of a penalty from any defaulter to the whole extent of his delinquency.

Upon this motion arose a debate, of which the most material parts only are sketched below.

Mr. DWIGHT quoted the general law of the United States on the subject of bonds to be given by disbursing officers, to show that it contained a provision of a general nature, embracing the provision now proposed for this particular case, and therefore rendering this amendment unnecessary.

Mr. HARDIN replied that a posterior law, enacting differently from the law which Mr. DWIGHT had quoted, would supersede that law; and that, if this bill limited the bond to be required to five thousand dollars, it would have the effect to repeal the contrary provision of a preceding act. This was just what he wished to prevent. His amendment did not propose to exact security from these persons, that being already required by the bill; but only to regulate the manner of the recovery and the extent of the bond to be given. But, he said, if the question were, whether any security should be required or not, he should be in favor of requiring it. We have deposited too much money in the hands of banking institutions and of individuals, not now to take the alarm. Look at the book full of defaulters' names sent to us at the last session. How many hundreds of thousands of dollars have been lost to the United States—and by whom? By agents whose securities have been deficient, or have escaped responsibility. It was time to exact security from public agents, whether those agents are banks or individuals, &c.

Mr. WOOD gave it as his opinion that more importance had been given to the subject now before the House than in reality it deserved. The section which was proposed to be amended, he said, did not apply to banks, which were not considered in the light of individual agents by the act to which this section referred, as he showed by a review of its provisions. In the few States or Territories to which the provision under consideration would be applicable, no pension agent would have a control, at any one time, over more than one or two thousand dollars of the public money. It was not worth while, therefore, to make the proposed provision with respect to security in a case of so trifling magnitude as this. These agents were appointed by the Secretary of War, and responsible to him, and the security of each to the amount of five thousand dollars would be ample to answer all useful purposes, &c.

Mr. WALWORTH was of opinion, that some provision would be found necessary in this class of cases. By the act of 1818, the Revolutionary pensions were made payable in the same manner as the invalid pensions. In the course of every year, he said, some of the agents had public money to pass through their hands to the amount of more, he believed, than a hundred thousand dollars. The pension agent for the State of Vermont, if he was well informed, annually disbursed that sum. He did not think that the amendment now under consideration was exactly such a one as was required, and he had not himself pre-

H. OF R.

Revolutionary Pensions.

DECEMBER, 1821.

pared one; but, if the bill were recommitted, he thought such a one might readily be devised.

Mr. Wood explained.

Mr. TRACY concurred in the opinion that an importance had been given to this bill which it did not merit, inasmuch as the amount of money annually paid for invalid pensions was small, and might be safely left to the discretion of the Secretary of War, exercised in regard to the appointment of agents. But, he said, the principle of this bill is of more importance; and, as the question had been agitated in the House, he felt disposed to have a correct decision on it. It was of great importance, he conceived, that the forms of security taken by this Government from its disbursing agents should be changed. He thought that the old system of bonds, with penalties, was attended with serious inconveniences, and with something yet more serious—great losses. He did not see any just obligation that could be urged to a man's being required to give bond for the honest discharge of the duty confided to him. If a man be honest, he can easily get security to that effect, which is all the Government wants of him. He believed that the agent banks would not hesitate to give any security which individual agents might be required to give in like cases, &c.

Mr. Ross declared himself in favor of the amendment. We do not know, he said, what sums of money are deposited, from time to time, in the hands of the disbursing agents of the Government; and, if this House undertook to designate the amount of security required, the Secretary might not think himself at liberty to require security to any greater amount, &c. He suggested a doubt whether the Government could recover more than the specific amount of a bond thus given, though it might have been defrauded of ten times the amount. With regard to the objection that it was beneath the dignity of the House to interfere in this small matter, Mr. R. said he had observed that it had been almost impossible to legislate in detail in any case, because it was declared to be an innovation on a general principle. And if a bill was brought in to change the principle, why here was a case of exception, and there was a case of hardship; and so many objections were raised to a general remedy, that, in the end, there could be got no remedy at all. When an evil was detected, it is best to cure it as you can, rather than run the risk of its not being cured for the want of a general system.

Mr. DWIGHT spoke further in explanation, but was not distinctly heard by the reporter.

Mr. HARDIN would lay it down as a rule, that the acts of no Congress are obligatory on the Congress that shall follow it. All laws are prospective in their operation, and there are two ways in which former laws can be repealed by those that are subsequent: 1st, where there is a repeal in express terms, and 2d, where there are provisions in a subsequent law that are incompatible with, and contradictory to, that which was enacted before it. In the case now presented to the House, the statute of a preceding year, directs that the penalty of the bond shall be graduated by the discretion of the

Secretary of War. A subsequent law provides that the penalty shall not exceed \$5,000. By which shall the Secretary be directed?—Unquestionably by the last. What would be the effect of contradictory statutes in a court of justice? Suppose it should be enacted that any man of sound mind, memory, and discretion, who should steal a horse in the District of Columbia, should expiate his offence upon the gallows. Such is the statute. But the next year there is a law enacted, that for such an offence the culprit shall be doomed to the penitentiary for ten years. It is perfectly clear that these inflictions that are promulgated are incompatible with each other. Which then shall be executed? The latter, beyond a doubt, in conformity with the established rule of the common law, that "*leges priores, posteriores contrarias abrogant.*"

In relation to the inquiry now before the House, Mr. H. was not very solicitous which rule of construction was adopted; although the principles of law on the subject were in his view well understood and perfectly settled. He knew not the agents that were employed in the business, nor was he actuated by any personal considerations. He could not say, in reply to the gentleman from New York, (Mr. TRACY,) whether the banks were to be considered as agents or not, although it was strongly his opinion that, *pro hac vice*, they were to be regarded as agents. Yet, after all, it was but a play upon words; for the duties of the banks, when they act, in the distribution of these moneys, is sufficiently defined. The primary and governing object which he (Mr. H.) had in view was such security for the United States as should be adequate to secure the faithful disbursement of these moneys. And although the question had arisen on a bill that in its importance was comparatively trifling, yet the principle it contained was interesting and momentous. It was surely time for the House to turn its attention to the subject in some way or other. He was willing for any course that could attain the object; and, if a wholesale remedy could not be obtained, it was expedient to avail ourselves of those of a retail character; but it was surely a novel proposition to continue an evil merely because the remedy proposed was not sufficiently extensive for its total annihilation.

Mr. BUCHANAN remarked, that there was no doubt that great evils existed; and the question now was, not with regard to the existence of the evil, but to the application of the remedy. Mr. B. was in favor of the first part of the amendment, but opposed to the remainder. What was the situation of those who entered into bonds to the Government as sureties? This was, indeed, an important question, but, in his opinion, was involved in no doubt. The law, in his opinion, was clear and decisive, that no recovery could be had of the surety beyond the penalty of the bond. Sureties are favored in the law, and no rule of construction can make them liable beyond the amount expressly stipulated in their contract of assurance. That being the case the question now is, shall we proceed to unfix the law, without a clear and com-

DECEMBER, 1821.

Proceedings.

H. OF R.

prehensive view of all the consequences to which it may lead? Evils have existed, but in our haste to avoid them we should be careful not to introduce new and greater evils, the magnitude of which we can neither foresee nor control.

In reference to the latter amendment he would observe, that the gentleman from Tennessee (Mr. HARDIN) had stated his knowledge of the defalcation of a district paymaster who had failed for the sum of \$374,000, when he had given bonds only in the sum of \$60,000. Now, he would ask whether any prudent, honest, and responsible man would, in any case, however enlarged his confidence, execute his bond as surety for another to so great an amount? And if he would not, what was the consequence? Either that the Government must, to a certain extent, repose itself upon the character of the agent, or the tendency of the bond will be kept out of sight, and only be a snare to the unwary. It had not generally been owing to the insufficiency of the penalty, but to the insolvency of the obligors, that the Government had suffered; and he, Mr. B., was satisfied, that if the latter part of the amendment should be adopted, many meritorious young men now in office would be obliged to abandon their stations, from their inability to procure the indemnity required. An unlimited, indefinite responsibility, is what no prudent man would undertake. It was, therefore, preferable to extend the penalty, if that should be thought necessary, rather than leave it subject to a contingency that could not be measured, and which, however great his resources, might involve the surety in irreparable ruin. Mr. B. was willing to have the extent of the security left discretionary with the Secretary of War; so that, after his judgment had been expressed as to the amount necessary to cover probable losses, the surety should be no further bound. The amount contemplated by the bill was by no means great. It was a scanty pittance for the war-worn soldier, and he was altogether opposed, on a bill of so trifling a nature, to alter a general law, the bearing of which might lead to such important results. He would, therefore, call for a division of the question.

The question being thereupon divided, the first part of the amendment was put and carried.

The second question being under consideration, Mr. COLDEN briefly stated his sentiments in opposition to it. He doubted its efficacy, even if it should be adopted; but, however that question might be decided, he believed the amendment, as already adopted, was sufficient to cover the contingency. On both grounds, therefore, he was opposed to the residue of the amendment.

Mr. MONTGOMERY believed it was not important to settle the common law doctrine on this subject; for he entertained no doubt that, whatever the common law might be, it was competent for this House to establish the principle. It was a principle, in his view, extremely important. He was in favor of the amendment, and thought that all the class of cases in which the disbursement of public moneys was involved, should be subject to security adequate to the possible losses that the Government might sustain.

The question was then taken on the latter clause, for extending the responsibility beyond the penalty, and negatived.

Mr. WALWORTH moved to strike out the word "invalid," so as to extend the provision of the act to all pensioners.

Mr. SAWYER remarked that, by reference to the bill, it would be seen that its general object was to continue in force a law for the payment of pensions to persons who were disabled by known wounds, received in the Revolutionary war. Of course such an amendment would defeat the bill.

The question was then put, and the motion lost.

The Committee thereupon rose, and reported progress; but, on motion of Mr. LITTLE, was refused leave to sit again.

In the House Mr. SWAN moved to recommit the bill to the Committee on the Judiciary, which was opposed by Messrs. RHEA and H. NELSON, and lost.

The amendment, as reported by the Committee, was, on motion of Mr. H. NELSON, concurred in.

Two verbal amendments were proposed by Mr. RHEA, and respectively adopted.

Mr. McCoy renewed the motion (made by Mr. WALWORTH in Committee of the Whole) to strike out the word "invalid." The motion was opposed by Mr. WRIGHT, and negatived.

The bill was then ordered to be engrossed for a third reading.

THURSDAY, December 20.

Mr. JOHNSTON, of Louisiana, presented documents in support of a claim of widow Leray, of New Orleans, to compensation for a negro man, three mules, and a cart, lost in the public service during the military operations in the neighborhood of that city, towards the termination of the late war with Great Britain.—Referred to the Committee of Claims.

Mr. LITTLE submitted the following resolution:

Resolved, That the Secretary of War be directed to lay before this House any vouchers and papers in his office relative to the claims of certain merchants in the city of Baltimore, whose vessels were sunk in that harbor by the order or orders of the officer commanding, for the defence of that place, during the year 1814.

The resolution was read, and the rule requiring it to lie on the table one day, for consideration, being dispensed with, the question was taken, Will the House agree thereto? and it passed in the affirmative.

Mr. CUSHMAN submitted the following resolution, viz:

Resolved, That the Committee on Revolutionary Pensions be directed to inquire into the expediency of reviving the pension law of March 18, 1818; or of so modifying it, that by lessening the quantum of bounty to individuals, its provisions may be extended to certain descriptions of the Revolutionary soldiers, in reduced and necessitous circumstances, and not absolutely dependent on public or private charity.

The resolution was ordered to lie on the table.

Mr. FARRELLY called for the consideration of

H. OF R.

Cumberland Road, &c.

DECEMBER, 1821.

the resolution which he had submitted to the House on a former day, requesting the Secretary of the Treasury to lay before the House a copy of the report made by the commissioners appointed to view and inspect the Cumberland road.

The question for consideration was carried.

Mr. RANDOLPH proposed to modify the phraseology of the resolution, so as to substitute the word *directing*, instead of the word *requesting*. When information was sought from a co-ordinate branch of the Government, it was usual to adopt the language of request. When it was wanted from a Ministerial department, the resolution issued in the form of a command.

The suggestion was assented to by the mover, and the resolution was adopted.

Mr. NELSON, of Massachusetts, submitted the following resolution, viz:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of authorizing letters and packets to and from the Secretary of the Board of Commissioners, appointed under the 11th article of the treaty between the United States and Spain, concluded at Washington on the 22d of February, 1819, to be conveyed, by mail, free of postage.

The resolution was read, and the question being taken on agreeing thereto, it was determined in the negative.

On motion of Mr. TOMLINSON, the Committee of Commerce were instructed to inquire into the expediency of repealing the act passed April 26, 1816, by which was allowed an additional compensation of fifty per cent. to the compensations of certain officers of the customs therein named.

Mr. WRIGHT submitted the following resolution:

Resolved, That the Clerk of this House pay to the representatives of Thomas Claxton, deceased, late the Doorkeeper of this House, the sum of two hundred dollars out of the contingent fund, for the purpose of defraying the expenses of his funeral.

After some remarks by Mr. COCKE, the SPEAKER, and Mr. MALLARY, with respect to the Constitutional power of the House to appropriate public moneys in this manner, the question was put, and the resolution negatived.

On motion of Mr. TRIMBLE, the House proceeded to consider the resolution submitted by him on the 18th, requesting the President of the United States to cause the House to be furnished with certain information therein detailed; and the same being again read, was agreed to by the House, and Messrs. TRIMBLE and WORMAN were appointed a committee to present the same to the President of the United States.

An engrossed bill, entitled "An act to extend the time allowed for the redemption of lands sold for direct taxes," was read the third time and passed.

The House then resolved itself into a Committee of the Whole, on the bill for the relief of Samuel Clarkson and Alexander Elmslie. (Mr. CAMPBELL, of Ohio, in the Chair,) and, after a few remarks in favor of the bill by Mr. NEWTON, and a verbal emendation suggested by Mr. TRACY, the Committee rose, and reported the said bill to

the House, who concurred therein, and ordered the same to be engrossed for a third reading.

An engrossed bill, entitled "An act to revive and continue in force an act, entitled 'An act to provide for persons disabled by known wounds received in the Revolutionary war,'" was also read the third time and passed.

Mr. CAMPBELL called for the consideration of the resolution he had submitted in an early part of the session for the appointment of a committee on the subject of apportioning the number of Representatives of the United States according to the fourth census.

The House agreed to consider the resolution, adopted the same, and ordered that it consist of one member from each State.

The SPEAKER presented a communication from the Department of State on the subject of the fourth census, which, together with the documents, was ordered to be printed, and referred to the committee just appointed.

CUMBERLAND ROAD, &c.

Mr. TRIMBLE called for the consideration of the resolutions submitted by him on Tuesday relative to the progress and completion of the Cumberland road.

The first of these which was taken up was that which requests the President of the United States to inform the House of the progress which had been made in the survey of the continuation of the Cumberland road from Wheeling to the Mississippi. This resolve was agreed to without objection.

The two other resolutions respecting the repair of the Cumberland road, and the execution of the projected road from Wheeling to the Mississippi, were then read, and, being before the House,

Mr. FARRELLY wished the resolution to remain on the table until the information was obtained from the Secretary of the Treasury, pursuant to the resolution that he had the honor to introduce, and which had been this morning adopted. It was desirable that the House should act upon the subject with the best lights that the case afforded. It was an important subject. Large sums of money had been expended, and, he feared, to very little purpose, for he had understood that the commissioners had examined the road this season, and had given an unfavorable report of the manner in which the public money had been expended, and that those disbursements were made with an eye to private speculation rather than public utility.

Mr. TRIMBLE said his object was to have as early an inquiry as possible into this subject. He wished the committee to be raised now, that they might have an opportunity of investigating this subject at a period of the session most convenient for the purpose, the House being less engaged than it would be after the holidays. When the papers called for by the resolution already passed were received, he proposed they should be referred to the committee with respect to this inquiry. Mr. T. reminded the gentleman from Pennsylvania that opposition to inquiries into this subject had sometimes been found in the very quarter in which

DECEMBER, 1821.

Sick Seamen—Bank of the United States.

H. OF R.

the road lies. It was but the other day that a petition had been presented to this House for the allowance of a drawback on exportation of cordage manufactured from Russia hemp; which petition was referred to a committee. While an inquiry was going on into that subject, Mr. T. wished that an inquiry should be made into the expediency of providing some mode of getting a road to transport our own hemp to the market in which the foreign hemp successfully competes with it; and he prayed that the House would allow this inquiry to be commenced at an early day. Whenever the subject came to be debated in this House, he said he knew there would be a discussion as well of the Constitutionality as of the policy of the measure; and he hoped it would be brought on in time to allow a deliberate consideration of it.

Mr. FARRELLY said he had no objection to the object of the resolutions, and had only thrown out his suggestion on the subject for the consideration of the mover, without intending to object to the resolutions.

The question was then taken on the passage of the resolves, and decided affirmatively without objection.

SICK AND DISTRESSED SEAMEN.

The resolutions yesterday submitted by Mr. COLDEN, calling on the commissioners of navy hospitals for certain information relative to the administration of the fund for the relief of sick and disabled seamen, being taken up for consideration—

Mr. SMITH, of Maryland, suggested that the information would perhaps be more properly required at the hands of the Secretary of the Treasury; and Mr. COLDEN readily consented to give to his motion that direction.

Mr. COLDEN concisely stated the reasons which had induced him to propose these resolutions. The object of the first of them, he said, was to ascertain whether the fund for the relief of sick and disabled seamen was competent to the objects for which it was provided, to inquire of the proper department whether sick and disabled seamen of the United States do, or do not, in consequence of the provisions for their benefit made by law, receive adequate aid. He had been induced to ask for this information, because he had been told, in such a way that he could not doubt it, that a very great portion of the seamen of the city of New York, in which port, from its extensive commerce, so many seamen were collected, received no relief from this fund. If the existing laws contained no better provision on this head than that now in operation, Mr. C. said he trusted that the House would agree with him that further legislation on the subject was necessary.

The object of his second resolution, Mr. C. said, was to ask of the proper department what were the existing rules and orders with regard to the admission of patients into the hospitals of the United States. He was induced to do this by information which he now laid before the House. He had on his desk, he said, a letter of instructions

from the Secretary of the Treasury addressed to the revenue officers of the different ports, who are the agents of the Government in relation to the administration of this fund. Mr. C. proceeded to state parts of these instructions, and the practice under them, to which he had decided objections, viz: that no man shall be admitted in the United States hospital or asylum who is afflicted with incurable disorders; that no one, be his disorder what it may, shall be continued on the establishment after his disorder is pronounced incurable, which rule had been so rigidly observed, that unless the physician pronounces that the disease of an applicant is curable, he is refused admittance; that not more than a certain number of patients, be the number of applicants ever so great, shall be received into any hospital or asylum, the number in New York being limited to sixty. All these, Mr. C. considered as departures from the principle of the act constituting the fund for the relief of sick and disabled seamen. What, he asked, does that act require? Why, that every American sailor who enters the ports of the United States is to contribute a portion of his hard earnings to the establishment of this hospital fund. One would think, therefore, that the Government was bound to give him the compensation promised for this contribution—that is, to relieve him when sick, disabled, or in distress. But, said Mr. C., how is he treated when he presents himself at the door of a hospital of the United States? The inquiry is, not what is the matter with him—not whether he is an American seaman and in distress, but the inquiry which he has to make is, are there sixty persons now in the hospital? If there be so many, he cannot be admitted. In vain the seaman says, I have contributed all my lifetime to this fund, and you refuse to keep your sacred engagement with me, putting aside considerations of justice and humanity, &c. Mr. C. concluded by saying that much more might be added on this subject, but he forbore to say more than was necessary to show that an inquiry into it was advisable.

The resolutions were agreed to without opposition.

BANK OF THE UNITED STATES.

Mr. COLDEN submitted the following resolution:

Resolved, That the committee to whom was referred the memorial of the Bank of the United States be directed to inquire and report to this House, whether the said Bank is not in the practice of taking more than six per centum per annum for or upon its loans or discounts.

Mr. C. stated the object of the resolution to be, to inquire and ascertain whether the Bank of the United States had not violated its charter. It would be recollected that, by the express terms of the act constituting the Bank, this House was authorized to institute a committee to make such inquiry. He had been informed by good authority that, from its first establishment to the present time, the Bank had been in the habit of requiring, and receiving, a greater interest than six per cent. to which it is limited by the charter. The man-

ner in which this was done, was by miscalculation of time, giving to the year only 360 days, instead of 365. This might, at first, appear to be an unimportant matter; but it would be found, on calculation, that, upon the discounts made at that Bank, the difference in seventy years would amount to a sum equal to the whole capital of the Bank. It was true, that the charter limited the duration of the Bank to twenty years; but it was equally true, that it looked forward to a renewal of its charter, and would probably be able to accomplish its object.

Mr. LITTLE opposed the resolution. If the gentleman from New York had documents to prove the fact upon the Bank, it would be most proper to issue a *quo warranto*, and summon the institution to appear and show cause why its violated charter should not be taken from it. But, if such documents did not exist, he could not, for one, feel willing to leave this place to go as an inquisitor to Philadelphia, to overhaul the proceedings of that Bank.

Mr. SMITH of Maryland, had no objection against making inquiry into the subject. He could not say particularly what had been the usages of the Mother Bank, but, with regard to the branches, he believed it would be found that they had adopted the same rules with regard to the calculation of time, that had been uniformly adopted by other banks throughout the country.

Mr. TUCKER, of Virginia, rose to inquire of the mover if he had other proof with respect to the taking of a greater interest than six per cent. except such as grew out of the substitution of 360 days for 365, in their calculations of annual interest.

Mr. COLDEN replied that he had—for he also understood that they took the interest of 64 days on a loan for 63 days. But he supposed all subordinate inquiries would fall under that of the general character which he had submitted, and he thought the practice to which the gentleman from Maryland (Mr. SMITH) had alluded, however extensive it might be, afforded no excuse to the Bank of the United States, for an obvious breach of the law.

Mr. TUCKER rejoined that, however correct the principle might be, were it introduced for the purpose of settling an inchoate practice, yet, as an usage had been created by common consent throughout the Union, he did not feel willing to disturb it. It might create great confusion and alarm. He believed there were few, if any, banking institutions that did not violate the literal construction of their charters. Not only was this the case, in the two instances to which the gentleman from New York had referred, but also in requiring the interest in advance. This was a compound interest; but no law had forbidden it, and these usages had been adopted, so far as he was acquainted, by every bank in the country. The people had acquiesced in them, and *communis error facit legem*. It was a prescriptive law with which it was not perhaps prudent to interfere. If the Bank of the United States, in this particular, were usurers, so were State banks;

and if we undertake to unsettle the custom, the whole country will be put into commotion. The excess which these nice calculations created was small in amount, and *de minimis non curat lex*. The banks lend their money at 60 days. As the year consists of 365 days, the five odd days must be lost by the bank or the borrower, and it has been generally admitted that the fraction should be calculated in favor of the bank. In view of all these considerations he did not think it was expedient for Congress to interpose on the occasion.

Mr. RANDOLPH felt under obligation to the gentleman from New York for bringing the subject in question under the consideration of Congress. In his opinion it was entitled to serious inquiry, nor did he apprehend that the inquiry would produce the effects which the gentleman who had just sat down (Mr. TUCKER) seemed to contemplate. The Congress of the United States had nothing to do with State banks; but this institution was within their special cognizance. The difference of time on which usurious interest was exacted was regarded as a trifle! In the exchequer of the gentleman over the way, (Mr. TUCKER,) it might be a trifle; but to the people of the United States it was no small amount. Once in seventy years there was thus extracted from the people an amount equal to the whole extent of its capital, by this body without a soul. And because the system of extortion had extended, it must therefore be continued—and the generality of the offence was to insure its impunity. In a land that boasted of being governed by laws, he hoped that such a doctrine would not be allowed to prevail. A remedy ought to be applied. An exemption, in his opinion shameful, was last year made in favor of that Bank, and he hoped that this Congress would not manifest a similar subserviency. Frauds ought not to be sanctioned by this House, whether committed by individuals or by bodies corporate. Mr. R. disavowed any connexion with banking institutions, whether national or territorial, and with respect to most of them he believed it was true that the less said the better.

Mr. LITTLE moved to amend the resolution, so as to refer it to the Committee on the Judiciary. The motion was negatived, and the resolution adopted as moved.

RELIEF TO LAND PURCHASERS.

Mr. RANKIN gave notice that he should not call for the consideration of the bill, entitled "An act for the relief of certain purchasers of public lands," until the first week in January next.

Mr. COOK wished the subject to be taken up, in order to give him an opportunity of proposing an amendment, more important, in his opinion, than the bill itself, as it then stood.

The House, thereupon, went into Committee of the Whole on the said bill.

Mr. COOK, after a few prefatory remarks, moved the following amendment:

SEC. 2. And be it further enacted, That it shall be lawful for the legal holder of any certificate, as afore-

DECEMBER, 1821.

Petition of David Taylor.

H. OF R.

said, who may have filed his declaration with the proper officer, and accepted the provisions of the before-recited act, so as to be entitled to the further credit herein granted, before the said 30th day of September, one thousand eight hundred and twenty-two, to relinquish any such land to the United States, and apply the payments made thereupon in the same manner that it might have been done prior to the said 30th day of September last, in case no such declaration had been filed: *Provided, however, That, in all such cases, the party relinquishing shall be held bound to pay such interest as may have accrued by a failure to pay any instalment which, by virtue of the act aforesaid, may have become due and payable.*"

Mr. HARDIN also submitted the following, as a proviso to the bill:

"*Provided, That, whenever a relinquishment shall be made under the provisions of this act, the credit the person shall be entitled to in consequence of said relinquishment shall be applied equally to each instalment.*"

Mr. COOK assented to adopt the proviso as part of his motion; and thereupon the Committee rose and reported, and obtained leave to sit again.

In the House, Mr. COOK moved that the motion he had submitted and the proviso he had adopted in Committee of the Whole be printed; which motion was agreed to.

And the House adjourned.

FRIDAY, December 21.

Another member, to wit: from South Carolina, WILLIAM LOWNDES, appeared, produced his credentials, was qualified, and took his seat.

Mr. GORHAM presented a memorial of sundry merchants of Boston, complaining of the arbitrary and unlimited power vested in the appraisers appointed under the revenue act of April, 1818, and praying that such an alteration in said act may be made as will authorize an appeal to the Federal Courts from the decisions of the said appraisers, in order that no one may be convicted of perjury and fraud, without an opportunity of establishing his innocence; which motion was referred to the Committee of Ways and Means.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of Isaac Finch, accompanied with a bill for his relief; which was read twice, and committed to a Committee of the Whole.

An engrossed bill, entitled "An act for the relief of Samuel Clarkson and Alexander Elmslie," was read a third time, and passed.

Mr. CAMPBELL submitted a joint resolution providing for the distribution of the marshals' returns of the fourth census; and the rule which requires a resolution, to which the concurrence of the Senate shall be necessary, to be laid on the table on a day preceding that on which the same shall be moved, having been dispensed with in this particular case, the resolution was read twice, and ordered to be engrossed and read a third time to-day.

On motion of Mr. CONDIOT, the Committee on Roads and Canals were instructed to inquire and report upon the expediency of affording aid by the United States to any company incorporated under

the laws of New Jersey, for the purpose of connecting by a canal the waters of the Delaware and the Raritan.

On motion of Mr. NELSON, of Maryland, the Commissioner of Public Buildings was directed to report to this House a statement of the amount of unimproved property in the City of Washington, belonging to the United States, with an estimate of the probable cash value at this time.

Mr. MALLARY submitted the following resolution, viz:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of establishing one or more naval schools, for the purpose of promoting the instruction of such persons as may be intended for the naval service of the United States.

The resolution was read, and the question being taken to agree thereto, it was determined in the negative.

On motion of Mr. WOOD, the House proceeded to consider the sixth resolution, submitted by him on the sixth instant; and the same being again read, was modified and agreed to, as follows:

6. *Resolved, That the subject of the Mint Establishment, the coins of the United States, and foreign coins, be referred to a select committee.*

Mr. WOOD, Mr. LOWNDES, Mr. CAMBRELENG, Mr. BARTON, and Mr. MOORE of Pennsylvania, were appointed a committee, pursuant to the said resolution.

The joint resolution submitted by Mr. CAMPBELL, of Ohio, (in relation to the census,) was read a third time and passed, in the following words:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State be instructed to furnish to each member of the present Congress, and the Delegates from Territories, the President and Vice President of the United States, the Executive of each State and Territory, the Attorney General and Judges of the courts of the United States, and the colleges and universities in the United States, each one copy; for the use of the Departments, viz: State, Treasury, War, and Navy, five copies each; for the use of the Senate, five copies; and for the use of the House of Representatives, ten copies, of the marshals' returns of the fourth census; and that the residue of the copies of the said returns be deposited in the library of Congress.

PETITION OF DAVID TAYLOR.

On motion of Mr. TRACY, the House then resolved itself into a Committee of the Whole, on the report of the Committee of Claims on the petition of David Taylor.

Mr. TRACY moved that the resolution submitted in the report of the Committee of Claims, unfavorable to the prayer of the petitioner, be amended so far, at least, as to authorize the granting of some relief.

Mr. TRACY explained the nature of the claim in question, from which it appeared that the petitioner was the owner of a quantity of staves that were at Gravelly Point, in the State of New York, at the time that General Wilkinson embarked from

H. OF R.

Proceedings.

DECEMBER, 1821.

that place to proceed down the St. Lawrence river—that the staves were used as fuel by the army, for which the petitioner claimed indemnity. Mr. T. called for the reading of sundry affidavits, and a letter from General Boyd, which were read, and he endeavored to show that, however improvident the use of valuable staves for fuel might have been, yet they were so far necessary to the army as to raise a sufficient consideration to support a claim for something, and, also, to rebut the idea of that wanton desolation which would drive back the petitioner to a hopeless resort to the commanding officer. Mr. T. was willing to have the question arising on the extent of the remuneration recommended to the committee, subject to a direction from the House to recognise the principle of liability.

The claim was further supported by Mr. Wood, and opposed by Messrs. WILLIAMS, of North Carolina, and RICH, principally on the ground that this (admitting the facts as set forth to be true) was a claim for indemnity, which, if admitted, would open the door to an endless series of demands upon the public treasury. It was also contended that, from the balance of testimony, it appeared that the waste and destruction that was made, was wanton and unnecessary; and, if redress was due, it should be sought for from the officers under whose eye and cognizance the wrong was committed.

The discussion was animated, and gathered importance as it advanced, by the reference which was made to the law of nations as applicable to the subject, and also by the analogy that was said to exist between this and other claims that had been allowed by the Congress.

On these grounds, Mr. BUCHANAN moved that the Committee rise and report, to the end that further time be given for reflection upon those general principles that seemed to be involved in the case, and which should regulate the decisions of that body in future.

The motion was carried; and, in the House, leave was granted to the Committee of the Whole to sit again.

—
MONDAY, December 24.

Mr. COLDEN presented a memorial of the Governors of the New York hospital, for the relief of sick and insane persons, praying to be reimbursed a sum of upwards of seventeen thousand dollars, expended by them for the relief of sick and disabled seamen, beyond the provision made by the agents of the Government for that purpose; and suggesting the expediency of increasing the contributions of seamen to the hospital funds from twenty to thirty cents per month; which memorial was referred to the Committee of Ways and Means.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill making a partial appropriation for the military service for the year 1822; which was read twice, and committed to a Committee of the Whole.

Mr CAMPBELL, of Ohio, from the Committee on

Private Land Claims, made a report on the petition of Peggy Mellen, accompanied with a bill for her relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made an unfavorable report on the petition of Eli Hart, for interest and discount on money loaned to the quartermaster's department; which was read, and committed to a Committee of the Whole on Wednesday next.

On motion of Mr. HENDRICKS, the Committee on the Public Lands were instructed to inquire into the expediency of authorizing a portion of the public lands, in the vicinity of Forts Wayne and Defiance, to be laid off, under the direction of the surveyor general, in town lots, and sold on account of the Government.

Mr. ROCHESTER submitted the following resolution, viz:

Resolved, That the Secretary of the Treasury be requested to report to this House the quantity of land relinquished to the United States; the quantity on which full payment has been made; and the quantity on which further credit has been allowed, under the provisions of the act for the relief of purchasers of public lands prior to the first day of July, 1820, passed March 2, 1821; distinguishing the amount of the debt on which further credit has been allowed.

The resolution was ordered to lie on the table until to-morrow.

On motion of Mr. MOORE, of Pennsylvania, the Committee on Indian Affairs were instructed to inquire whether any, and, if any, what, change is expedient in the system of our intercourse with the Indian tribes: and also to inquire what further measures ought to be adopted for the promotion of their comfort and civilization.

Mr. TUCKER, of Virginia, submitted the following, viz:

Resolved, That the standing rules of this House be so amended, as to insert, after the word "persons," in the 15th line of the 13th rule, the following words: "who are or have been members of any State Legislature, and."

The resolution was ordered to lie on the table until to-morrow.

Mr. COOK called for the consideration of a resolution submitted on a former day by the member from Missouri, (Mr. SCOTT,) to instruct the Committee on the Judiciary to inquire whether any, and, if any, what, alterations are necessary to be made in the organization of the courts of the United States, so as more equally to extend their advantages to the several States.

The House agreed to consider the same, and the resolution was adopted.

The House then resolved itself into a Committee of the Whole on the bill reported by the Committee of Claims for the relief of Isaac Finch. No amendment having been offered to it, the Committee rose and reported the same to the House, ordered it to be engrossed, and read the third time on Wednesday next.

And then the House adjourned to Wednesday next.

DECEMBER, 1821.

Public Lots in Washington.

H. OF R.

WEDNESDAY, December 26.

Two other members, to wit: from Connecticut, JOHN RUSS, and from North Carolina, FELIX WALKER, appeared, produced their credentials, were qualified, and took their seats.

Mr. NEALE presented a memorial of the Mayor, Board of Aldermen, and Board of Common Council, of the City of Washington, praying that the jurisdiction of justice of the peace in and for the county of Washington, in the District of Columbia, may be extended to sums not exceeding fifty dollars, and that the constables for said county may be appointed by a board of justices of the peace; which memorial was referred to the Committee for the District of Columbia.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made an unfavorable report on the petition of sundry inhabitants of the county of Niagara, sufferers by the enemy during the late war; which was read and committed to a Committee of the Whole to-morrow.

Mr. WILLIAMS, from the same committee, also made an unfavorable report on the petition of George Winthrop Fox; which was read, and ordered to lie on the table.

Mr. CAMPBELL, of Ohio, submitted the following resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State be directed to cause to be classified, and reduced to such form as he may deem most conducive to the diffusion of information, the accounts of the several manufacturing establishments and their manufactures, taken in pursuance of the tenth section of the act, entitled "An act to provide for taking the fourth census or enumeration of the inhabitants of the United States, and for other purposes," approved the 14th of March, 1820; and that he cause 1,500 copies of the digest, so to be made, to be printed, subject to the disposition of Congress.

Mr. STERLING, of New York, submitted the following resolution:

Resolved, That the Secretary of War be directed to lay before this House such information as he may possess in relation to the non-payment of certain mechanics, laborers, and contractors, who aided in building the Madison barracks, and in other public works or business at Sackett's Harbor, during the years 1815, 1816, and 1817, and to state further his knowledge, to what extent they have not been paid, and why they have not been paid; what evidence they now hold and have exhibited to the War Department, of their claims against the United States, the name of the deputy or assistant deputy quartermaster, who disbursed the money for the building of said barracks; whether he gave any bail, and, if so, to what amount, and when the said deputy or assistant deputy quartermaster was appointed, and when removed.

The resolution was ordered to lie on the table until to-morrow.

On motion of Mr. LOWNDES, the report on weights and measures, made by the Secretary of State, on the 22d of February, 1821, was referred to a select committee; and Mr. LOWNDES, Mr. TAYLOR, Mr. WHITMAN, Mr. ALEXANDER SMYTH, and Mr. RUSS, were appointed the said committee.

On motion of Mr. WILLIAM SMITH, the Committee on the Judiciary were instructed to inquire into the expediency of altering the terms of the court of the western district of Virginia.

On motion of Mr. CAMBRELENG, the Committee of Commerce were instructed to inquire into the expediency of erecting a lighthouse at Throg's Neck, on Long Island Sound.

Mr. PATTERSON, of New York, submitted the following resolution:

Resolved, That the standing rules of this House be altered, so as to insert, after the word "Legislature," in the 14th line of the 13th rule, the words "Ladies introduced by members of this House."

The resolution was ordered to lie on the table until to-morrow.

The Committee of the Whole, to which is committed the bill making a partial appropriation for the military service for the year 1822, were discharged from the consideration thereof, and it was recommitted to the Committee of Ways and Means.

The engrossed bill for the relief of Isaac Finch was then read the third time, and passed.

A communication from the Navy Hospital Commissioners was then read, and referred to the Committee on Commerce.

The House then resolved itself into a Committee of the Whole on the report of the Committee of Claims, unfavorable to the petition of Eli Hart; when

Mr. TRACY moved to amend the resolution attached to the report by striking therefrom the word *not*.

The motion was supported by Mr. TRACY, and opposed by Mr. RICH, when the question was taken thereon and carried, and the Committee rose and reported the resolution as amended.

PUBLIC LOTS IN WASHINGTON.

The SPEAKER laid before the House a report of the Commissioner of the Public Buildings, in obedience to the resolution of the 21st instant, calling upon him to state the amount of unimproved property in the City of Washington, belonging to the United States, and to give an estimate of its probable cash value at this time; which report was read, and ordered to lie on the table.—The report is as follows:

OFFICE OF COM. OF PUBLIC BUILDINGS,
Washington, Dec. 26, 1821.

SIR: In obedience to a resolution of the House of Representatives, passed the 21st instant, requiring a report of the amount of unimproved property in the City of Washington belonging to the United States, with an estimate of its probable cash value at this time, I have the honor to state:

That the public ground in this city consists of two descriptions; 1st. Building lots assigned to the United States upon a division with the original proprietors, agreeably to the terms and conditions of the deeds of trust for the ground within the limits of the city, by which the proprietors ceded to the United States one-half of the building lots, without any pecuniary equivalent. 2dly. "Reservations" of entire squares, or larger sections of ground, purchased from the original proprietors, on account of, and for the use of, the United States.

H. OF R.

Sale of Public Lands—Rules of the House.

DECEMBER, 1821.

Of the building lots there remain unsold about the number of 5,150. The reservations contain, together, 541 acres, 1 rood and 29 perches, or 23,584,745 square feet, equal to 4,479½ standard lots.

Any estimate of the cash value of this property must, under present circumstances, be extremely arbitrary. Owing to the general stagnation of business and scarcity of a circulating medium, few sales have been effected, either on public or private account, within the last year or two; and it is only from actual sales in the vicinity that the value of any given lot can be ascertained. The average price of the public lots heretofore sold is \$180 per lot, or about 3 419-1000 cents per square foot. Taking this as the rule of valuation, the whole of the ground belonging to the United States, in the City of Washington, would amount to one million seven hundred and thirty-three thousand, three hundred and ten dollars.

I have the honor to be, &c.

SAMUEL LANE,

Commissioner of Public Buildings.

HON. PHILIP P. BARBOUR,

Speaker House of Representatives.

SALES OF PUBLIC LANDS.

MR. ROCHESTER called for the consideration of the resolution introduced by him on Monday requesting information from the Treasury Department relative to the sales of public lands.

The House agreed to consider the same.

Whereupon MR. ROCHESTER observed, that he had been induced to offer the resolution from a persuasion that the information which it proposed to obtain would have a material bearing upon the bill lately reported to the House by the honorable the Chairman of the Committee on Public Lands, entitled "A bill for the relief of purchasers," &c., which had been read twice, and was, together with an amendment proposed by the member from Illinois, and another amendment from the gentleman from Kentucky, (MR. HARDIN,) committed some days since to a Committee of the whole House. MR. R. said that he considered the proposed extension of further indulgence to such of the indebted purchasers as had not availed themselves of the provisions of the act of Congress, passed March 2, 1821, as presenting a question of no little importance, and as one on which all possible light ought to be thrown; on which account he was pleased to find that the friends of the measure had evinced no disposition to urge its consideration hastily upon the House. In draughting the resolution, he (MR. R.) had recourse to the terms of the 8th section of the act of 2d March, 1821, by which it was made the duty of the several registers and receivers to make correct reports, &c., within three months from 30th September last. This clause, he thought, had been evidently incorporated in the act with a view to the securing and providing a correct detailed statement of the practical operation of the act of 2d March, 1821, for the information of the present Congress, and the better to enable them to decide upon the proper ulterior policy to be pursued in relation to the subject in question. The time, he said, within which these reports were to be made by the several registers and receivers had now nearly elapsed, and there

was every probability that the Treasury Department was now in possession of the whole of them, or would be before the expiration of the present week, provided those officers had attended to their respective duties; and that they had attended to those duties, he (MR. R.) had no reason whatever to doubt.

MR. R. continued, that on a question of the adoption of a resolution simply calling for information, it would perhaps be somewhat out of the usual order to dwell upon the merits of a bill previously committed; he would, however, remind the House, that the receipts into the Treasury for the year 1821, arising from the net proceeds of public land sales, had fallen short about \$300,000 of what they had been estimated at by the Secretary of the Treasury in his annual report made at the second session of the last Congress; that this deficit might perhaps be ascribed in part to the general stagnation of business, the failure of some banks, and the consequent derangement of the paper currency of the country; but he imagined that it was chiefly attributable to the operation of the law of March last.

What he now desired was to have this operation spread before the House in detail, as doubtless by a minute attention to the practical effects of the past law, a more correct estimate might be made of the probable future results from continuing its provisions in force; that, for his part, he should be glad to arrive at a conclusion, that the extension of those provisions, to such purchasers as had not availed themselves of them, would prove not only just and equitable to the purchasers, but also advantageous to the nation—that he had, however, his misgivings on the subject, and he trusted that, if Congress did re-enact the former law, it would be so guarded in its terms, as not to operate as an extinguisher to every motive which delinquent debtors might have to future punctuality.

He thought that there were other considerations which made the required information desirable, but he forbore to enlarge upon them. The call was not calculated to give the Secretary much trouble in complying with it, and he hoped the resolution would be adopted.

After some verbal amendments suggested by Messrs. MCCOY and RANKIN, which were assented to by the mover, the question was taken thereon, and the resolution adopted.

RULES OF THE HOUSE.

MR. TUCKER, of Virginia, called for the consideration of the resolution he had submitted on a former day, so to alter the standing rules of the House, as to admit upon the floor the present and past members of the Legislatures of the several States.

The House agreed to consider the resolution; when—

MR. TUCKER explained his views in relation to the subject. It was his object to confer upon the members of the Legislatures of our State sovereignties the same privileges and prerogatives that are granted to the members of foreign legislatures. He thought it derogatory to our national char-

DECEMBER, 1821.

Rules of the House.

H. OF R.

acter, and inconsistent with that self-respect which the functionaries of a free Government should entertain, to communicate to the members of a foreign legislature those privileges which we denied to our own. By the rules of the House, as they now stand, more than one hundred individuals, other than members, are privileged to come within the bar: and yet it is found that there are rarely more than five or six at a time who avail themselves of the privilege.

The idea, therefore, of any inconvenience resulting from the proposed change of the rule, was evidently fallacious. It was left subject to the direction of the Speaker—and, if at any time it should be found inconvenient in its operation, it was competent for the House to restore the rule as it stands at present. It was notorious, Mr. T. remarked, that the gallery did not answer the purpose that was expected from it. It was not a place where spectators could hear. Stenographers were indeed admitted, but their reports were often incorrect, and frequently and often necessarily so, from the relative situation of the speaker and the reporter, and the difficulty of hearing, even within the bar. Yet it was very desirable that all practicable publicity should be given to the proceedings of the House—and, as it might be done without inconvenience, he hoped the resolution would be adopted.

Mr. TAYLOR thought that the manner proposed by the gentleman from Virginia, (Mr. T.,) was the worst manner of doing a bad thing. If the selection or permission was made to devolve on the Speaker, it was very evident that it would never be practicable to refuse in any case where application was made by a member of the House. It would, in fact, become a matter of right to all those who were contemplated by the extension of the rule, to come upon the floor. If it is to be thus extended, where shall we stop? For the last ten years we have been continually extending the rule. During the late war the Governor of New York attended Congress, with his aids; but neither were introduced into the Legislative Hall. The rule was afterwards so far extended as to admit all those to whom Congress should vote thanks for their services. To preserve analogy and etiquette, it was then deemed necessary still more to extend the permission to the Commanders in Chief. After this time we were visited by a British Peer, who had taken great interest in the concerns of the northern fur trade, (the Earl of Selkirk.) To accomplish his introduction, the rule of the House was altered so as to admit members of a foreign legislature; but he believed the rule was made with special reference to that individual, and had never been practically extended to any other.

But, if the rule is enlarged, where will you stop? You now admit judges, and why not chancellors and judges of the supreme courts in the respective States? They were surely not less in dignity than those whom this resolution proposes to admit. Nor is this all. Members of this and the other House often bring with them to the Seat of Government their wives and their daughters, and you send these to the galleries, and at the same time

propose to admit on the floor of the House all those who at any time had obtained a seat in either branch of the legislative body of any State. He believed the measure would impose an invidious duty on the presiding officer—would be incorrect, unequal, and inconvenient in its operation, and therefore hoped it would not prevail.

Mr. BALDWIN made a few remarks in support of the resolution, but was not distinctly heard by the reporter. He was understood, generally, to observe, that he was aware the rule of the House had been often changed in relation to the subject, but that he had never known any inconvenience to result from the extension. He deemed it altogether improper that a privilege of this kind should be conferred on a member of the provincial Legislatures of Nova Scotia and New Brunswick, and at the same time be denied to the legislators of Pennsylvania and Massachusetts. He was disposed to extend the rule, especially as he saw no possible evil or inconvenience that could grow out of it.

Mr. RICH moved to amend the resolution by striking out the words "or have been," so as to confine the privilege to the benefit of members for the time being.

Mr. OVERSTREET was opposed to the amendment. The Legislatures of many of the States meet during the session of Congress, so that the amendment would defeat the principal object of the resolution.

Mr. TUCKER made a few remarks in reply to Mr. TAYLOR, and particularly answered the question, Where shall we stop? by saying it should be at the very moment that an inconvenience should arise from an extension of the privilege.

Mr. RANDOLPH remarked, that, in respect to the rights of individual States, and to the attention to be paid to State Legislatures, he would profess to yield to no man in that House, or in any other. It had been evinced by every act of his life. But he did not feel that that respect called for an adoption, either of the resolution, or of the amendment; for if the extension is once made, it will be difficult, not to say impossible, afterwards to alter it. When those, for whose benefit the rule is enlarged, shall avail themselves of it, where is the law of courtesy that shall subsequently exclude them? It had been correctly remarked, that it would cast an invidious responsibility on the Chair; so invidious that it would become (to use the expression) a non-user; for the Chair would never be disposed to assume the unwelcome prerogative. And when, said Mr. R., we are called upon to admit the ex-members of the State Legislatures upon the floor of this House, shall we consign to the cold and cheerless galleries the fairest, and best, and dearest part of our creation? Courteous, indeed, is the rule that shall exclude these from the fireside, and at the same time cherish and indulge our own sex in a participation of all the comforts which this House can afford. [The SPEAKER here remarked, that the question was simply on the motion of amendment.] Agreed, said Mr. R., and I oppose the resolution whether amended or not. Legislation is not a matter of

courtesy, and, without the remotest disrespect to the Chair, he would observe, that there was already disorder enough in the House, without laying in a new stock of materials to increase it. Additional numbers would necessarily have that effect; and the States of Virginia and Maryland could furnish enough, within the rule proposed, to fill the Hall.

The question was then taken on the amendment, and lost.

Mr. NELSON, of Maryland, opposed the resolution. He hoped that it would not be adopted, for other reasons than those that had been offered. He contended that the rule, as now proposed, was calculated to create distinctions in the Government unknown to the Constitution. By that instrument equal rights and privileges were extended to all; and the citizen who may have filled an office is supposed, after his trust is discharged, to return to the body of his fellow-citizens, disrobed of his official character. He is then entitled to no greater privilege or distinction than those around him. For this reason, independent of all considerations of convenience, he was opposed to the resolution.

The question was then taken, and the resolution was negatived.

THURSDAY, December 27.

Mr. GORHAM presented a memorial of divers colleges and literary and scientific societies, within the United States, praying that all printed books, which may hereafter be imported into the United States, may be exempted from the payment of duties; which memorial was referred to the Committee of Ways and Means.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill, making a partial appropriation for the military service, for the year 1822, and to make good a deficit in the appropriation for the Revolutionary pensioners; which was read twice, and committed to a Committee of the Whole.

Mr. EUSTIS, from the Committee on Military Affairs, reported a bill to authorize the reconveyance of a tract of land to the city of New York; which was read twice and committed.

Mr. EUSTIS also moved that the said committee be discharged from the further consideration of a treatise on military affairs, presented to them from Monsieur Franchieu, that the same be placed in the public library, and that the Speaker communicate to the author the distribution that has been made of the same.—Agreed to.

Mr. FLOYD submitted the following resolution:

Resolved, That the President of the United States be requested to cause to be laid before the House an account of the expenditures made under the acts to provide for the civilization of the Indian tribes.

The resolution was ordered to lie on the table until to-morrow.

Mr. STERLING, of New York, called for the consideration of the resolution he had submitted yesterday, calling for information relative to certain disbursements made at Sackett's Harbour

The House agreed to consider the same, and the resolution was adopted.

Mr. EUSTIS moved that the Committee on Military Affairs be discharged from the further consideration of the petition of Colonel Otho W. Callis, and that the same be laid on the table; which motion was agreed to.

After some discussion, in which Messrs. SMYTH, of Virginia, and COCKE took part, relative to the proper disposition thereof, the same was finally referred to the Committee on Claims.

Mr. STERLING, of New York, submitted the following resolution:

Resolved, That a select committee be appointed to inquire into the expediency of referring the unsettled claims against the United States, growing out of the late war with Great Britain, to the Auditor of the Treasury Department, to be settled by him under the superintendence of the Secretary of War, upon principles of equity and justice; or to otherwise provide for the disposition of said claims, in such manner as shall be just to the claimants, and safe to the United States; and that they have leave to report by bill or otherwise.

The resolution was ordered to lie on the table.

The House proceeded to consider the report of the Committee of the Whole, on the report of the Committee of Claims on the petition of Eli Hart: whereupon, on motion of Mr. TRACY, it was laid on the table.

Mr. TRACY submitted the following resolution, viz:

Resolved, That the Secretary of the Treasury be instructed to report to this House whether, in any cases, and, if any, in what cases, and under what circumstances, allowances have been made to public officers in the nature of compensation for discounts paid on bills of exchange or Treasury notes; or for damages, or interest, paid on protested Government bills.

The resolution was ordered to lie on the table until to-morrow.

PEGGY MELLEN.

The House then resolved itself into a Committee of the Whole on the bill reported by the Committee of Private Land Claims, for the relief of Peggy Mellen.

The petitioner was the mother of Alfred Stebbins, a natural son, who was a soldier in the late war, and died in the service without heirs. The mother petitioned to receive the bounty land to which her son would have been entitled, and also the arrears due him as wages, amounting to about three hundred and twenty dollars.

The committee had reported in favor of granting the prayer of the petition in relation to the bounty land only.

Mr. ALLEN, of Massachusetts, moved to amend the bill so as to cover the claim for arrears of pay.

A discussion ensued, in which Messrs. ALLEN, CAMPBELL, of Ohio, EDWARDS, of North Carolina, and WALWORTH, took part.

The amendment was resisted principally on the ground that it would establish a dangerous prin-

DECEMBER, 1821.

Reconveyance of Land to New York.

H. OF R.

ciple; that it would be legislating upon personal property, liable to be taken from the mother, by an administrator of the estate of the deceased, in which case she would derive no benefit from the provision.

The amendment was negatived; and, thereupon, the said bill was reported to the House without amendment, when the same was ordered to be engrossed for a third reading.

FRIDAY, December 28.

Mr. NELSON, of Virginia, from the Committee on the Judiciary, reported a bill to provide for the due execution of the laws of the United States within the State of Missouri, and for the establishment of a district court therein; which was read twice, and committed to a Committee of the Whole.

Mr. LATHROP, from the Committee of Revisal and Unfinished Business, reported a bill authorizing the payment of certain certificates; which was read twice, and committed to a Committee of the Whole.

Mr. FLOYD rose, he said, to submit a motion relative to the execution of an act of the last session of Congress, which had been the subject of much difference of opinion in Congress, and, in its effect, he had learnt, had produced much discontent elsewhere. For his part, Mr. F. said, he, as a supporter of that measure, had acted from the purest and most upright motives. He had very little doubt but that the law had been carried into effect with the same spirit as that which produced it. But, as there were individuals who supposed that they had been aggrieved by the mode in which the law had been carried into effect, to place the matter in its proper light, in justice as well to those whose conduct on this occasion he supposed to have been misrepresented, he moved the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire and report to this House whether the Army has been reduced, according to the provisions of the act "to fix the Military Peace Establishment of the United States," passed on the 2d day of March, 1821.

The resolution was agreed to, *nem. con.*

Mr. TRIMBLE submitted the following resolution, viz.:

Resolved, That the President of the United States be requested to cause to be laid before this House such communications between the Governments of the United States and France, or such other information respecting the construction of the 8th article of the Treaty of 1803, by which Louisiana was ceded; respecting the seizure of the *Apollo* in 1820, for a violation of our revenue laws; and also, respecting the discriminations made in each country between its own navigation and that of the other, as in his opinion it may not be inconsistent with the public interest to communicate.

The resolution was ordered to lie on the table for one day.

Mr. METCALFE submitted the following resolution, viz.:

Resolved, That the Committee on the Public Lands

be instructed to inquire whether any, and what, further provision ought to be made, by law, to secure the safe transmission of public moneys from the several land offices to the places of deposit designated by the Secretary of the Treasury.

The resolution was ordered to lie on the table.

An engrossed bill entitled "An act for the relief of Peggy Mellen, was read the third time and passed.

Mr. RANKIN submitted the following resolution:

Resolved, That the Secretary of the Treasury be instructed to inform this House what causes have rendered a portion of the public funds unavailable; designating the places and times at which they have been received, and the sum at each place, unavailable; also, what bank notes he has instructed the receivers of public moneys of the land offices, severally, to receive in the payment of public lands; what rules or reasons have governed him in making such bank notes receivable at such offices; whether the notes of any bank, not redeeming its notes by specie, have been received, or now are receivable, in payment for public lands; what legislative provisions, if any, are necessary to prevent an accumulation of unavailable public funds, and for transmitting, safely, the public moneys received at the several land offices of the United States to the Treasury, or other safe places of deposit.

The resolution was ordered to lie on the table one day.

RECONVEYANCE OF LAND TO NEW YORK.

On motion of Mr. STERLING, of New York, the House then resolved itself into a Committee of the Whole on the bill to authorize a reconveyance of a tract of land in the city of New York.

Mr. STERLING moved to strike out the word "retrocede," and to insert in lieu thereof the word "reconvey," which was carried.

Mr. COCKE, as chairman of the committee who reported the bill, briefly assigned the reasons by which the committee were actuated. He remarked that in proceeding to the result at which they had arrived, they had called upon the Secretary of War for his opinion on the subject. The Secretary had replied by expressing not only his own, but the opinion of the Engineer department, that as soon as Fort Diamond, at the Narrows, should be completed, which was understood to be near at hand, the fort now referred to would be unnecessary. That it was very little used and regarded at present—and if continued to be held by the United States, would occasion a continued expense without benefit to the public. It was also a part of the contract by which it was originally ceded to the United States, that when it was no longer of utility to the General Government it should be ceded back to the city.

Mr. GOLDEN observed, in further explanation of the subject, that the land in question was situated in front of the battery in the city of New York. The gale on the 3d of September last, had destroyed the barriers that had been raised to protect the battery, and that it was necessary to have a permanent and expensive repair, by a stone wall. Experience had proved that wooden walls were not sufficient. In these repairs the United States must join, if they continue to hold the

property, and the expense was estimated at \$18,000. Fort Clinton, however ornamental to the harbor of New York, was useless to the United States. It was built upon an artificial island formed of stones thrown together like a pyramid, without cement. The consequence was, that when the guns were fired, (which, he believed, had never been done except to return a salute,) the fort evidently settled down, and fears had been entertained that it would fall by its own noise. It might invite the enemy, but could not protect the city. This artificial island was connected with the main land by a bridge built of wood. It had been completed in 1814, and a year or two since underwent a thorough repair, at an expense, it was said, of \$6,000, and it was shown that the worms perforated it so destructively that it would be necessary to rebuild it once in about seven years, which would evidently cost the United States a large and unnecessary sum of money. Mr. C. also adverted to the condition in the original grant, as referred to by the member from Tennessee, (Mr. Cocke,) and claimed that law and justice required the reconveyance, as the contingency which it contemplated had arrived. Mr. C. further stated, that two guard-houses were originally erected at the extremity of the bridge, which, since the removal of the commander of that district, had been converted into grog-shops, to the great annoyance of the wives and children of the citizens who resorted to that promenade—and this, too, if not in defiance, yet in disregard of the civil authority.

Mr. HUBBARD believed there could be no possible advantage resulting to the United States from retaining the premises. He therefore moved so to amend the bill as to render it the duty of the Executive to reconvey the premises without any condition annexed to the retrocession.

After some further discussion of the subject, Mr. HUBBARD withdrew his amendment, and Mr. Ross moved so to amend the bill as to limit the discretion of the Executive to a retention of the materials of which the fort was composed.

This motion was supported by the mover, and opposed by Messrs. S. SMITH, COLDEN, TRACY, CAMBRELENG, COCKE, and HUBBARD, principally on the ground that the removal of the materials might involve the United States in a greater expense than an unqualified relinquishment. They thought it most expedient to refer it to the discretion of the Executive.

Mr. TRACY submitted a proviso to the amendment, which was lost; when the question being taken on the amendment of Mr. Ross, the same was negatived, and the Committee rose and reported the bill to the House as amended.

The House concurred in the amendment, and the bill was ordered to be engrossed for a third reading.

The House adjourned to Monday.

MONDAY, December 31.

Mr. BALDWIN presented a memorial of sundry inhabitants of the Territory of West Florida, pray-

ing that the said Territory may be annexed to, and form a part of, the State of Alabama; which memorial was referred to a select committee; and Messrs. BALDWIN, MORGAN, NELSON, of Maryland, WILLIAMS, of North Carolina, and BRECKENRIDGE, were appointed the said committee.

Mr. STEWART presented a petition of sundry inhabitants of the State of Pennsylvania, praying the aid and patronage of Congress to a plan therein detailed, for improving the navigation of the river Potomac; which petition was referred to the Committee for the District of Columbia.

Mr. MOORE, of Alabama, presented a petition of the merchants and other inhabitants of the town of Blakeley, and of the merchants of the interior towns of the State of Alabama, praying that the said town of Blakeley may be established as a port of entry; which petition was referred to the Committee of Commerce.

Mr. RANKIN, from the Committee on the Public Lands, made a report on the petition of Benjamin Freeland, accompanied with a bill for his relief, as also for the relief of John M. Jenkins; which was read twice, and committed to a Committee of the Whole.

Mr. LATHROP, from the Committee of Revision and Unfinished Business, made a detailed report; which was read, and ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act explanatory of the act for the relief of James Leander Cathcart, passed May 15th, 1820;" in which bill they ask the concurrence of the House.

On motion of Mr. JOHNSON, of Louisiana, the Committee on the Public Lands were instructed to inquire into the expediency of continuing in force, for two years, an act granting a double concession to the inhabitants of the State of Louisiana; or to report what causes have prevented them from availing themselves of that law; that they be instructed to inquire into the expediency of reorganizing the district of the Surveyor General south of the Tennessee river, so as to create one district for the State of Louisiana, and one for the State of Mississippi; and that they provide by law that the Surveyor General of each district give security for the faithful disbursement of the money placed in his hands.

On motion of Mr. MOORE, of Pennsylvania, the Committee on the Judiciary were instructed to inquire whether, by a late decision of the district court for the eastern district of Pennsylvania, a public agent, whose claim for certain allowances, in defect of vouchers, had been rejected by this House, has defeated the United States in a suit against him, by an allegation substantially different from that preferred to Congress, and one invalidated by evidence in the possession of the Government, of which the prosecuting officer could have availed himself for the benefit of the United States; and whether the officers prosecuting suits on behalf of the United States, in the several districts, for the recovery of money retained in the hands of public agents, are, under existing provisions, able to avail themselves of all the evidence relative to said suits, to be found among the records

DECEMBER, 1821.

The Finances.

H. OF R.

of Congress, or of the Executive Departments. And further, to inquire what other provisions for securing the interest of the United States, in relation to the recovery of money improperly retained by public agents, it is expedient to adopt.

On motion of Mr. CAMBRELENG, the Committee on the Judiciary were instructed to inquire into the expediency of authorizing the collectors of the revenue to furnish authenticated copies of all official documents which may be required as evidence in any court of law or equity.

On motion of Mr. RANKIN, the House proceeded to consider the resolution submitted by him on the 28th instant, and the same being read, and amended, it was, on motion of Mr. HARDIN, again ordered to lie on the table.

On motion of Mr. WHITMAN, the Committee on the Judiciary were instructed to inquire into the expediency of providing by law for the punishment of murder, robbery, or any other crime, which, if committed within the body of the county, would, by the laws of the United States, be punishable with death, when the same shall be committed on board of the ships of war of the United States, while lying within the jurisdictional limits of any particular State.

Mr. DARLINGTON submitted the following resolution, which lies on the table one day, of course.

Resolved, That the Secretary of the Treasury be directed to report to this House how much of the amount of fines imposed on the militia of Pennsylvania for non-performance of military duty in the late war with Great Britain, has been received by the marshals of the several districts of said State, and their deputies, respectively; how much of the sums so received, has been paid into the Treasury, or to the use of the United States; in whose hands any sums thus received, and not paid into the Treasury, or to the use of the United States, have been retained; who are the sureties of such delinquents, and what the amount of their respective bonds; what instructions have been given to the officer or officers prosecuting on behalf of the United States in relation to said delinquents and their sureties; whether suits have thereupon been instituted against them for the recovery of the sums so retained, and what has been the result of said suits.

[In offering this motion, Mr. D. took occasion to remark that a resolution having the same object in view was adopted by the House, on his motion, at the last session; but that, owing to some cause unknown to him, it had never been received at the Department, as he was informed. Certainly no report had been made to the House. He, therefore, was disposed to renew the attempt to obtain the desired information.]

An engrossed bill from the Senate, entitled "An act explanatory of an act, entitled 'An act for the relief of James Leander Cathcart,'" was read twice, and committed to the Committee on Claims.

Mr. FLOYD called for the consideration of a resolution by him submitted on the 27th instant, calling for information from the President of the United States relative to the disbursements that had been made under the acts passed upon the subject of civilizing the Indians. The House agreed to consider the same; when

Mr. TRACY moved to amend the resolution by adding thereto the following words: "specifying the times when, the persons to whom, and the particular purposes for which, the expenditures were made."

The amendment was agreed to, and the resolution adopted.

On motion of Mr. WALWORTH, the House agreed to take into consideration the report of the Committee on the Post Office and Post Roads on the petition of Lemuel Fitch.

Mr. WALWORTH moved that the same, together with the petition and documents, be referred to the Committee on the Judiciary.

The motion was supported by the mover, and opposed by Mr. WILLIAMS, of North Carolina, when the question was taken thereon and negatived; and the subject-matter thereof was, on motion, referred to a Committee of the Whole House.

The SPEAKER presented a communication from the War Department on the subject of the vessels sunk at the mouth of the harbor of Baltimore, during the late war, which was read, and, on motion of Mr. LITTLE, was referred to the Committee on Claims.

The SPEAKER also presented a communication from the Navy Department, estimating the additional expense of examining the different harbors belonging to the United States in the Pacific Ocean and transporting one hundred and fifty tons weight of artillery to the mouth of the Columbia river at \$25,000.

On motion of Mr. FLOYD, the said communication was referred to the select committee appointed on the subject of occupying a military post at the mouth of Columbia river.

THE FINANCES.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, made a report upon the state of the finances, accompanied with a bill to authorize the Secretary of the Treasury to exchange a stock bearing an interest of five per cent. for certain stocks bearing an interest of six and seven per cent.; which bill was read twice, and committed to a Committee of the Whole on Wednesday next.

The report is as follows:

The Committee of Ways and Means, to whom was referred the annual report on the state of the finances, report:

That they have had under consideration that part of the annual report on the state of the finances, which recommends the exchange of a stock bearing an interest of five per cent. for the stocks bearing an interest of seven per cent., and those of six per cent. issued in the years 1812 and 1813.

The object of the Secretary of the Treasury appears to the committee to be practicable and advantageous, not only to the Government, but to the holders of the stock. They, therefore, submit a bill. It proposes to exchange a stock bearing an interest of five per cent. for the seven per cents due in 1825, and so much of the six per cents, due the same year, as will make a total of twelve millions of dollars, which will leave the sum of \$5,462,332, redeemable by the Commissioners of the Sinking Fund during that year. And it also proposes a like exchange for fourteen millions of dol-

lars of the six per cent. stock, due in the year 1826, which will leave unredeemed, of the stock due that year, the sum of \$8,357,368; but the proportion of the sinking fund, applicable to the payment of the principal of the debt during the year 1826, amounts only to the sum of \$5,707,000, which will leave in that year an unredeemed balance of \$2,650,000; which balance will be redeemed gradually, by the operation of the sinking fund, as will be shown by a document received from the Secretary of the Treasury, which the committee ask leave to submit as part of their report; by which it will appear that, if the proposed exchange of stocks shall take effect, and the amount of the sinking fund be continued at ten millions of dollars, the whole debt of the United States (the three per cents excepted) will be extinguished in the year 1833, except only the sum of \$1,952,000. The same document shows a calculation, bottomed on the idea that it may be deemed advantageous to reduce the amount of the sinking fund to eight millions of dollars; in which case the whole of the debt (the three per cents excepted) will be paid off in the year 1835, except the sum of \$1,281,000. But as the committee have deemed it advisable to divide the amount of the exchanged stocks into four annual instalments, instead of three, (which had been recommended in the annual report on the finances,) it will, if adopted, prolong the final extinguishment of the present debt of the United States one year longer.

The committee are induced to propose that change, as well to lessen the pressure on the finances at the time, as to do comparative justice to the holders of the seven per cent. stock, by giving them a longer time for their reimbursement.

All which is respectfully submitted.

Calculations of the operations of the Sinking Fund, referred to in the letter of the Secretary of the Treasury, of December 25, 1821.

Description of stock.	DEBT.		When redeemable.
	Amount.		
6 per cent. of 1812	\$8,855,981	83	
7 per cent. " "	8,606,355	27	
	17,462,337	10	in 1825.
6 per cent. of 1813	22,357,368	84	in 1826.
6 per cent. of 1814	13,011,437	63	in 1827.
6 per cent. of 1815, and funded Treasury notes	10,954,994	17	in 1828.
	\$63,786,137	74	

Operation of the Sinking Fund of ten millions.

Year.	Yearly amount applied to payment of principal.	Total amount of principal paid.	Total amount of debt remaining unpaid.
1825	\$5,350,000		
1826	5,707,000	\$11,057,000	\$52,729,000
1827	6,049,000	17,106,000	46,680,000
1828	6,412,000	23,518,000	40,268,000
1829	6,797,000	30,315,000	33,471,000
1830	7,205,000	37,520,000	26,266,000
1831	7,636,000	45,156,000	18,630,000
1832	8,095,000	53,251,000	10,535,000
1833	8,581,000	61,832,000	1,954,000

Operation of a Sinking Fund of eight millions.

Year.	Yearly amount, &c.	Total amount, &c.	Total amount, &c.
1825	\$3,210,000		
1826	3,435,000	\$6,645,000	\$57,141,000
1827	3,664,000	10,309,000	53,477,000
1828	3,884,000	14,193,000	49,593,000
1829	4,117,000	18,310,000	45,476,000
1830	4,364,000	22,674,000	41,112,000
1831	4,606,000	27,300,000	36,486,000
1832	4,904,000	32,204,000	31,582,000
1833	5,198,000	37,402,000	26,384,000
1834	5,510,000	42,912,000	20,874,000
1835	5,840,000	48,752,000	15,034,000
1836	6,198,000	54,943,000	8,843,000
1837	6,562,000	62,505,000	1,281,000

APPLICATION.

1825. The amount of debt redeemable in 1825, is - - - - \$17,462,000
And the amount of the sinking fund applicable in that year - 5,350,000

Which leaves, of the stock redeemable in that year, a surplus unredeemed, of - - - - \$12,112,000

1826. The amount redeemable this year, is - - - - 22,357,000
And the amount to be applied - 5,707,000

Which leaves a surplus unredeemed this year - - - - \$16,550,000

1827. The amount redeemable this year, is - - - - 13,011,000
Amount to be applied - - - 6,049,000

Surplus unredeemed this year - \$6,692,000

1828. Amount redeemable this year - 10,954,000
Amount to be applied - - - 6,412,000

Surplus unredeemed this year - 4,542,000

1829. To this sum add, in order to give employment to the sinking fund applicable this year, the surplus of the stock which was redeemable, and unredeemed, in 1827 6,962,000

Making - - - - \$11,504,000
Amount to be applied in 1829 - 6,797,000

Surplus unredeemed this year - 4,707,000

1830. To which add, of the surplus of 1826 - - - - 2,498,000

Making - - - - \$7,205,000

Which sum is also the amount of the sinking fund applicable in the year 1830.

The sum of \$2,498,000, being deducted from the surplus redeemable and unredeemed, in 1826, leaves a balance, to be redeemed subsequently to the year 1830, of - - - - \$14,152,000

DECEMBER, 1821.

Reconveyance of Land to New York.

H. OF R.

To which add the surplus redeemable and unredeemed, in 1825, of	12,112,000
Making	26,264,000
Which may be exchanged for five per cent. stock, redeemable in 1831, 1832, 1833, and 1834, viz:	
In 1831	7,636,000
	18,628,000
In 1832	8,095,000
	10,533,000
In 1833	8,581,000
Leaving to be redeemed in 1834	\$1,952,000

Fractions of a thousand dollars have generally been rejected in the calculations.

The SPEAKER then presented a communication from the Comptroller of the Treasury Department, containing an abstract of the outstanding balances due on the books of the third auditor of the Treasury; which was ordered to be printed and laid on the table.

RECONVEYANCE OF LAND TO NEW YORK.

An engrossed bill, entitled "An act to authorize the reconveyance of a tract of land to the city of New York," was read the third time, and the question was stated that the same do pass; when

A motion was made by Mr. Ross that the said bill be recommitted to the Committee on Military Affairs, with instructions to strike out all thereof after the word "city," in the 7th line of the engrossed bill, and to insert the following as a second section:

SEC. 2. *And be it further enacted*, That the President of the United States is hereby authorized and required, after the works erected on said tract of land shall have been dismantled, and previous to the reconveyance so to be made as aforesaid, to cause to be exposed at public sale, to the highest bidder, the materials belonging to the United States, composing the works erected on said tract of land, for cash, or upon such terms of credit as he may judge most conducive to the interest of the United States."

Mr. Ross supported the motion. He had understood that the fortification now proposed to be given up without an equivalent, had cost the United States a sum not less than \$150,000. The walls above high-water mark were built of elegant hewn stone, and it was difficult for him to conceive that they were of no value. If indeed the fact were so, that they were absolutely worth nothing, it would be useless to undertake to sell them; but no sufficient evidence existed to bring his mind to that conclusion. At any rate, a sale at auction would test the question—and should it prove in the result that his opinion was well founded, it was right and proper that the avails, whatever they might be, should go into the public Treasury.

Mr. GOLDEN expressed his reluctance at again trespassing upon the patience of the House; but as the subject related to a district which he had

the honor in part to represent, and to a city of which he was an inhabitant, he felt it incumbent upon him to sacrifice his feelings to his duty. He was opposed to the recommitment because it would necessarily postpone the passage of the bill—and he hardly need repeat that delay was almost as ruinous as denial. It was a fact within his own knowledge, and for the accuracy of which he could appeal to every gentleman, conversant with the place in question, that every month's delay deteriorated the property with which the fort was connected. It was essential, therefore, that the reconveyance should be made with the least possible delay. Mr. C. then adverted to the condition contained in the original cession to the United States, and contended that the right of re-entry existed in point of law. It could belong to the United States no longer than it should be used as a fortification. It might be asked—if such is the case, why do you come to this House as petitioners for redress? Were this question put to individual parties in a similar case, the question would be conclusive. But in the present instance the answer is easy. One of the parties is the Government—the supreme power in the State—and were the corporation to send their constables with staves to effect the re-entry, they would be met by soldiers armed with swords and bayonets. Hence the corporation are driven to the necessity of asking as petitioners, what they have the moral right to urge in the language of demand. That the period had arrived when, by the terms of this grant, the retrocession had become a matter of right, was evident from the communication of the Secretary at War and the documents on the table. It was also evident from the use to which the guard-house had been converted—one of which had become a public nuisance by being turned into a dram shop, and the other by being converted—he would not say, but he had strong suspicious—to purposes, not less reprehensible. As a matter of strict right and law, therefore, Mr. C. contended this bill could not be fairly resisted.

It had been said that the fortification had cost \$150,000, and was probably of very considerable value at present. In this estimate he believed the gentleman from Ohio (Mr. Ross) was mistaken; for, instead of \$150,000, he (Mr. C.) had understood that the expenses attending it had not fallen far short of half a million of dollars—and for what earthly purpose no one could divine, unless for the amusement of the agents of the Government who were employed to erect it. With respect to its present value, he would remark, that this uncemented pyramid was formed by sinking what are called cobble stones, where the water is said to be sixty feet deep. Of course its base must be very large to support a fort upon the apex; and he believed that two-thirds of the whole amount was expended in making the artificial foundation. If, then, it cost \$300,000 to sink those stones—by what arithmetic could it be ascertained how much it would cost to raise them? Until this question was answered their value cannot be known. The gentleman from Ohio has said, that part of the fortification is above the

H. OF R.

Reconveyance of Land to New York.

DECEMBER, 1821.

water. It is so; and the wall is six feet thick at the top, and nine at the bottom. But does this furnish a rule for the calculation of its value? Or has the gentleman taken a view of it from the summit of the Alleghany mountains, that has enabled him to decide upon its worth? All the hewn stone which he has regarded as valuable were formed and fitted for this martella tower. They are circular, and can be of no essential use for any other purpose, and it would probably be as easy to resort to the quarries of Jersey, as to attempt to reface them and suit them to any useful object. The report of the Secretary on this subject is evidence that they are valueless; and that the cost of removal would be greater than the worth of the materials. But suppose it were otherwise—suppose a scanty saving should be gleaned by the corporation from that useless fabric—what then? Is the Government of this great nation about to chaffer with the municipal authorities of a city, and sell the stones and rubbish of an abandoned fort at auction? Is it about to drive a bargain with the corporation of New York? Sir, this it not the mode in which that corporation has dealt with you. When you (and here I would be understood to speak of the Government) were in want of a site for military purposes, she gratuitously ceded it. When Governor's Island—a most valuable tract of nearly two hundred acres was wanted—they did not stop to chaffer and bargain for the purchase, but made the cession with a liberality and promptness worthy of them. The State and city of New York have not often been petitioners to this Government. They have no magnificent bank with its foundations resting on the public Treasury; no splendid custom-house erected by the national munificence—nor extensive hospital endowed by its liberality. They ask no grant of moneys. They only claim a fulfilment of the terms of a contract to which they feel themselves entitled, as well by the strictness of law, as the liberal principles of equity.

Mr. EUSTIS remarked, it was evident that the materials in question were of less value than the time consumed in disposing of them. He was in favor of the report of the committee, for he did not consider the materials of much importance; but, since the subject had been pressed, he must say, that the proposition of the gentleman from Ohio did not appear to him (Mr. E.) to be unreasonable. But he did not rise so much to discuss the value and disposition of the materials, as to correct some mistakes into which it appeared that gentlemen had fallen. Fort Clinton was built at the request of the people of New York after the affair of the Chesapeake. That city was deemed assailable by an enemy, and thence they asked for fortifications to protect them. Their request was granted, and the superintendence given to a man of skill, and science, and genius—now no more—who performed the trust, as he (Mr. E.) believed, with fidelity and justice to the Government. He was sorry it was now to be abandoned. At all events, the immediate abandonment was premature. Fort Diamond was not yet completed; but, even were it otherwise, what would be the con-

dition of New York, if Fort Diamond should be taken? Fort Clinton would enable the people to make an efficient and powerful cross-fire, should an enemy silence the outer fort and approach the city. Mr. E. did not care for the materials—but he believed the worthy gentleman from New York (Mr. COLDEN) was mistaken in several particulars. The same objections that he had raised against Fort Clinton, on account of its being built on cobbling stones, applies with equal force to Fort Diamond; for that rests on the same foundation. It had been urged, that the nearness of Fort Clinton to the city would endanger firing the town. But would there be less danger if there was no fort at all? Mr. E. wished it to be distinctly understood that he protested against abandoning this interior defence. If retained, it would form a powerful check upon an enemy, who would know that, after encountering one fort, it had others still to combat. The forts were already built, and this, in his opinion, formed a strong additional argument why they should not be abandoned. The expense had been incurred, and he thought it much safer to rely on six or seven forts, than to place the sole dependence on Fort Diamond. What but these forts protected the city of New York last war from attack? And he would submit to the consideration of the House whether it was wise or expedient to abandon a system that experience had proved to be salutary and efficient. An error had also intervened in regard to the expense. Instead of half a million, it had cost but about \$120,000—of which the foundation, under the surface of the water, had cost but about twenty or thirty thousand dollars. It had been objected, also, that the guard-houses had been converted to improper purposes. If that were the case, it was not an evil that was without a remedy. By an application to the proper source the evil could be corrected. At all events, it did not seem a weighty argument that the fort should be abandoned, merely because the guard-house had been turned into a tippling shop, especially when it is only *one* among the *twenty-five hundred* shops of that description which he understood were tolerated in that city. From all the views, therefore, that he could take of the subject, he could see no sufficient cause for abandoning the fort; but, if abandoned, he could perceive no adequate reasons opposed to the recommitment.

Mr. ROSS said, that he was not satisfied, from the reasons that had been offered by the gentleman from New York, (Mr. COLDEN,) that the proposition should be rejected. He would not enter into a discussion of the right of re-entry in a legal point of view, which it was claimed that the Corporation of New York possessed. He could not forbear remarking, however, that the circumstance of her petitioning, as a favor, what it was contended she was entitled to demand as a right, at least afforded a fair presumption that she was not quite so sanguine of her legal rights, as the gentleman who had undertaken to protect them. Neither should he agitate the question whether or not the materials were of value—although it did not require a view from the Alleghany mountains

JANUARY, 1822.

Roads and Canals.

H. OF R.

to ascertain that hewn stone which had cost \$120,000, lying in the city of New York, were valuable to the possessor.

Not that he expected the Government to purchase diving bells to fish up the stone that lay in the bosom of "the vasty deep," but it required no great portion of common sense to discover that those materials above the water, were too valuable to justify a surrendry without an equivalent. Suppose it were to cost one-half to remove them—suppose the net amount did not exceed ten or twenty thousand dollars—what then? Are such sums beneath our notice—not worth saving? It was certainly due to the people not to give away their property without compensation, and especially at a time when so many deficiencies are reported by the Treasury Department.

Mr. CAMBRELENG expressed his sentiments in favor of the bill, but was willing it should be re-committed that the House might reflect upon it, with more mature deliberation; for he was satisfied that the more it was examined, the more reasonable and expedient the bill would appear.

Mr. COCKE was in favor of the recommitment. He made a few remarks upon the excursive range of the debate, and upon the propriety of obtaining more ample information as to the value of the materials. He thought no inconvenience could result from the delay, as the repairs in contemplation could not be made until the opening of the Spring.

Mr. COLDEN made a few observations in explanation and reply; when the question was taken on the motion for recommitment without special instruction, and carried.

The House adjourned to Wednesday.

WEDNESDAY, January 2, 1822.

Another member, to wit, from Kentucky, JAMES D. BRECKENRIDGE, appeared, produced his credentials, was qualified, and took his seat.

Mr. WILLIAMS, from the Committee of Claims, made a report on the petition of James May, accompanied with a bill for his relief, as also for the relief of the legal representatives of William Maccomb; which bill was read twice, and committed to a Committee of the Whole.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to whom has been referred the petition of Gad Worthington, reported a bill for his relief; which was read twice, and committed to a Committee of the Whole.

Mr. EUSTIS, from the Committee on Military Affairs, to whom the subject has been referred, reported a bill supplementary to "An act relating to the ransom of American captives of the late war;" which was read twice, and committed to a Committee of the Whole.

Mr. SCOTT submitted the following resolutions, viz:

1. *Resolved*, That the Secretary of the Treasury be directed to communicate to this House a copy of the instructions given by the Treasury Department, under the 8th section of the act of the 21st April, 1806, entitled "An act supplementary to an act entitled 'An

act for ascertaining and adjusting the titles and claims to lands within the (then) Territory of Orleans and district of Louisiana," to the several boards of commissioners, appointed under the act of the 2d of March, 1805, for the ascertaining and adjusting the titles and claims to lands within the (then) aforesaid Territories.

2. *Resolved*, That the Secretary of the Treasury be directed to transmit, or cause to be transmitted, to this House all the books of the several boards of commissioners, and recorder of land titles, made out and transmitted to the Treasury Department, under the several acts, and instructions predicated thereon, relating to the adjustment of land titles in the (then district of Louisiana and Territory of Missouri) now State of Missouri, whether the said books relate to the confirmation or rejection of said land claims.

The resolutions were ordered to lie on the table one day.

On motion of Mr. DARLINGTON, the House took up the resolution submitted by him on the 31st ultimo, and the same being again read, was agreed to by the House.

ROADS AND CANALS.

Mr. HEMPHILL, from the Committee on Roads and Canals, made a detailed report, accompanied with a bill to procure the necessary surveys, plans, and estimates, on the subject of roads and canals; which bill was read twice, and committed to a Committee of the whole House, on the third Monday of January instant.

The report and bill are as follows:

The Committee on Roads and Canals report—

That they have considered the general subject submitted to their charge, and also the specific objects of internal improvements which have been referred to them.

In relation to the subject, under its general head, they believe it will not be controverted, that, after the formation of a good government, it is the next interest of a nation to adopt such a system of internal policy as will enable the people to enjoy, as soon as practicable, all the natural advantages belonging to the country in which they live. Labor is justly considered to be the wealth of the nation; productions of every description, and all things valuable, are produced by it; and the whole operation of a society of people, as regards their political economy and social intercourse, consists in obtaining what are usually called first materials; in the conversion and fashioning of these for use; and the transportation of the raw or manufactured articles to the places where they are finally wanted. The transportation necessarily forms a heavy charge on the fund of labor, and, in proportion to the reduction of labor, in this respect, will be the gain of a nation, as the part saved can be employed to advantage in other objects.

The great extension of our territory, and its various latitudes, abounding in almost every species of products, will always render the expense of transportation an object of great and national importance.

Although artificial works may not, for a while, afford a profit to the undertakers, still they will be beneficial to the community at large, not only by the increased value they will give to productions at a distance from market, but, also, by an increase in the quantity of productions, in consequence of the additional excitement to enterprise, and the general diffusion of industry.

The utility of good roads and canals has been tested by long experience in other countries. In China, it is said that, by means of their water carriage, their home market is nearly equal to the whole market in Europe. Satisfactory evidence of the immense advantages to be derived from canals, is likewise furnished from every part of Europe, and particularly in England, where they have been extended, within the last fifty years, in every direction, supplying the demands of one place by the resources of another, and so extensively spreading industry, as to enable them to supply their own wants, and to furnish vast exports to exchange for the wealth of other countries.

It must be a source of gratification to every American, when he reflects that his own country possesses advantages, in this respect, not inferior to that of any other on the globe; and that there is none that presents higher inducements for the legislative aid of its councils, or where there is a greater certainty of being repaid for any expenses which their patriotism may bestow.

From a well regulated system of internal commerce in the United States by the means of good roads and canals, the happiest consequences may be expected to flow. We enjoy almost every variety of climate, and possess populous cities and condensed settlements, as well as vast tracts of country thinly inhabited. A regular trade in the exchange of manufactured articles for raw materials would take place, and the nation would receive, within itself, the whole benefit that is usually gained between old and new countries. It is admitted, by the ablest writers on political economy, that the most important branch of the commerce of any nation is that which is carried on between the inhabitants of the towns and those of the country; customers become acquainted with each other, and less risk is generally incurred.

It is also essential to the prosperity of a nation to obtain all the labor it can from its members; and, as it is composed of people possessing various talents and inclinations, every reasonable encouragement should be given to each branch of national industry, as a means of calling into activity the different qualifications of men; and, besides, from a frequency of intercourse among the citizens living in different parts of the country, close and profitable connexions would be formed, which would have a tendency to produce harmony, and affections that would add to the safety of the Union: the people would reap great benefits from a stability in their affairs, as a judicious system of internal commerce would create a certain proportion, or level, in all the departments of industry, that could not be readily disturbed by the wars and vicissitudes of other Powers. From changes of this description, over which we had no control, this country, in several instances, has experienced shocks, and sustained losses, which would far exceed, as it is reasonable to conjecture, the aid or expense necessary, on the part of the General Government, for the completion of such artificial roads and canals, and improvements in rivers, as would satisfy, in this respect, all the real exigencies of the country.

Among the many objects of improvements in inland navigation, some are limited, and within the means of individual and State enterprise; others are of a character too extensive, their productiveness depending on improvements to be made in different States at great distances from each other. The great and important line of inland communication contemplated along the

Atlantic coast, would be beneficial, in various degrees, to more than one half the States in the Union; yet, no one or two States would have sufficient inducements to furnish the necessary means for the completion of any of its parts; nor could a union of sentiment be scarcely expected, among the States through which it would pass, as to the particular routes or modes of execution. Such objects are great and national, requiring one general head, and, consequently, the aid of the General Government is rendered indispensable, as well as regards the funds to be furnished as the facility of execution. Objects of such transcendent importance to the welfare and defence of the nation must be perfected by the General Government, or their perfection can scarcely ever be expected. Had we waited for the joint agency of States, more than an age would have passed before we should have seen a road constructed by the union of States, equal, in national design and costliness, to the road from Cumberland to Wheeling. Objects on the large scale of national benefit are creatures of the Union, the scope and views of State authority being local in their nature.

The committee will further observe that, antecedent to the existence of the General Government, several States could not have perfected an object of this kind, without entering into some understanding or compact in the nature of a treaty, in the character of independent States; but serious doubts may now exist on the subject; as States are not allowed, by the Constitution, to enter into any agreement or compact with each other, it will at least be difficult to say how such a power can be exercised by the States, which could be enforced, unless by corporations, in perpetuity, or by the consent of Congress.

The committee will not undertake to make researches into the history of the rise and progress of canals and internal improvements, in ancient or modern times, in foreign countries; but the task is an agreeable one to pursue, even partially, the public spirit that has prevailed on this subject in many of the States. The works that have already been constructed are so many evidences of the opinion of the people in favor of their utility beyond their expense, and from them much experience has been derived, as to skill and economy, that will be very useful hereafter. Their influence should operate as a persuasive inducement to the General Government, to begin her own great work for her own benefit.

As to most of the improvements that were perfected prior to 1808, the committee will refer the House to a report of the Secretary of the Treasury, dated the 4th of April of that year. This plain and valuable document contains more information on the subject in general than is to be found anywhere else. Since that period, great efforts have been made towards internal improvement, but the committee do not possess an accurate knowledge as to their extent, and even if they were to embrace all the public improvements that are within their recollection, it would too much enlarge this report; a few objects will therefore be selected.

In Massachusetts, a magnificent work or dam, a mile and three quarters in length, has been constructed, to connect the town of Boston with the main land, at an expense of about six hundred thousand dollars. An allusion need only be made to the patriotic and laudable efforts of the State of New York, as to grandeur in the designs, and the execution of

JANUARY, 1822.

Transactions at Pensacola.

H. OF R.

so great a part of their immense undertakings. Pennsylvania has made great advances in the construction of permanent bridges over her large rivers, and in the making of artificial roads; and is now engaged in the grand object of connecting the Susquehanna with the Schuylkill, by the Union canal. Maryland has made expensive roads, in many directions, for the accommodation of her citizens, and to bring trade to her capital. Virginia, in 1816, enacted a law, creating a board of public works, with power to appoint engineers and surveyors, and, also, creating a fund, to be applied exclusively to the rendering navigable, and uniting by canals the principal rivers, and more intimately connecting, by means of public highways, the different parts of the Commonwealth. North Carolina has made many and expensive improvements in roads and canals. In the State of Georgia, it appears, from official documents, that one hundred and eighty-nine thousand dollars have lately been expended in public improvements, besides one hundred thousand dollars for free schools. In the State of Tennessee, the Legislature has unanimously appropriated five hundred thousand dollars for the purpose of improving the navigation of the rivers in the State.

Public examples need not, at present, be further traced.

The national objects which, in the opinion of the committee, claim the first attention of Government, are—

1. The great line of canals, from the harbor of Boston to the South, along the Atlantic seacoast.

2. A road from the city of Washington to that of New Orleans.

3. Canals to connect the waters of the Ohio, above, with those below, the falls, at Louisville; Lake Erie with the Ohio river; and the tide waters of the Potomac with the same stream at Cumberland.

4. Communications between the Susquehanna and the rivers Seneca and Genesee, which empty into Lake Ontario.

5. Communications between the Tennessee and Savannah, and between the Tennessee, Alabama, and Tombigbee rivers.

For the more particular information relating to these objects, and for their magnitude, and the many and high advantages which they would produce to the Union, either in times of war or peace, the House are referred to the above report of the Secretary of the Treasury, and to the very interesting and convincing report of the Secretary of War, dated January 7, 1819, which reports the committee beg may be annexed to their present report. As to some of the objects mentioned, or parts of them, it will be important, previous to the commencement of any general system, to form the basis of it upon the best information that can be obtained by scientific men; the committee, therefore, beg leave to report a bill, entitled "An act to procure the necessary surveys, plans, and estimates, on the subject of roads and canals."

The committee will make separate reports on the subject of the Chesapeake and Delaware Canal, and the other objects referred to them.

An Act to procure the necessary surveys, plans, and estimates on the subject of Roads and Canals.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States is hereby authorized to cause the necessary surveys, plans, and estimates to be made for a nation-

al road from the city of Washington to that of New Orleans, and for canals from the harbor of Boston to the South, along the Atlantic seacoast, and to connect the waters of the Ohio above with those below the Falls at Louisville; Lake Erie with the Ohio river, and the tide-waters of the Potomac with the same stream at Cumberland; designating what parts may be made capable of sloop navigation, and for communications between the Susquehanna and the rivers Seneca and Genesee, which empty into Lake Ontario; and between the Tennessee and Savannah, and between the Tennessee, Alabama, and Tombigbee rivers; and for such other routes for roads and canals as he may deem of national importance, in a commercial or military point of view. The surveys, plans, and estimates for each, when completed, to be laid before Congress.

SEC. 2. *And be it further enacted,* That, to carry into effect the objects of this act, the President be, and he is hereby, authorized to employ two skilful civil engineers, and such officers of the corps of engineers, or who may be detailed to do duty with that corps, as he may think proper; and the sum of — dollars be, and the same is hereby appropriated, to be paid out of any moneys in the Treasury, not otherwise appropriated.

DIGEST OF MANUFACTURES.

On motion of Mr. CAMPBELL, of Ohio, the House then proceeded to the consideration of the resolution, submitted by him a few days ago, requiring the Secretary of State to cause a digest to be made of the returns of manufactures, &c., and to cause 1,500 copies of the same to be printed. The resolution was read a first and second time; and the question being on ordering the same to be read a third time—

Mr. C. explained the grounds of this proposition, which was generally that the returns procured with so much labor and expense were in their present shape of no manner of use, and could only be made useful in the way proposed. He had followed the course taken in regard to similar returns of the late census, with the exception of placing the execution of the work in the hands of the Secretary of State instead of the Secretary of the Treasury, presuming that the digest could be made by the clerks in that office, instead of there being two thousand dollars paid for executing it, as was, in regard to the last census, paid to Mr. Tench Coxe.

Mr. COCKE, desiring to examine this subject more thoroughly, before acting on it, moved to refer the resolve to a Committee of the Whole; and—

Mr. CAMPBELL assenting to the motion, it was referred accordingly.

TRANSACTIONS AT PENSACOLA.

Mr. WHITMAN called for the consideration of the resolution he had submitted in the early part of the session, requesting information from the President of the United States, relative to any misunderstanding which may have existed between General Jackson and Judge Fromentin, in the Territory of Florida, &c.

Mr. W. remarked, that he deemed the inquiry of the first importance; and if he had fully under-

stood the reasons that had occasioned the previous postponement, they were founded upon an expected communication from the Executive in relation to that subject, without a call from the House. But he (Mr. W.) had information, on which he relied, that such was not the intention of the President; and, of course, it could not be indecorous to adopt the resolution.

The House, thereupon, agreed to consider the same; and the first question in order was upon an amendment heretofore proposed to strike out the words "think proper to communicate," and to insert in lieu thereof the word "possess"—thereby requesting *all* the information possessed by the President in relation to the subject. The question was taken on this proposition, and lost—ayes 61, noes 72.

The question then being upon the whole resolution—

Mr. CANNON moved to strike out all that part of the resolution which related to the supposed misunderstanding between Governor Jackson and Judge Fromentin. Mr. C. could perceive no good consequences likely to grow out of the proposed inquiry. It was not calculated, in his opinion, to lead to any beneficial result. It might protract debate and excite a ferment; and for any national purposes it was worse than useless. It related to a supposed misunderstanding between two subordinate officers; and there was as little propriety for this inquiry as there would be if this House were to call upon the President of the United States for information relative to alleged differences between the marshals of different districts.

Mr. WHITMAN regarded this inquiry as of more consequence than the gentleman from Tennessee (Mr. CANNON) seemed to apprehend. It did not relate to a quarrel between one Executive officer and another; but it was between an Executive and a Judicial officer, both clothed with high powers, and both executing important functions. That a difficulty had existed, no one seemed to question. But little of the merits of the case had transpired, except what could be gathered from rumor and newspaper information. Yet even from these frail and scanty vehicles of information, sufficient had been disclosed to excite surprise and awaken inquiry. The transactions alluded to were surely novel; and, if correctly stated, they were such as this nation, he believed, would hesitate to avow. If those reports were true, the Governor had not only restrained the liberty of an individual, but when the Constitutional remedy by habeas corpus was applied, was about to lay his hand upon the judge himself. He thought it was a dangerous precedent to sanction, and, if allowed in one case, it might be in another. When, therefore, the subject was brought before the House in the Executive Message, he thought it their duty, as the grand inquest of the nation, to institute an inquiry, and not to suffer it to pass *sub silentio*. It was the duty of the House to watch over the liberties of the people—to guard against the approach of tyranny, under whatever form it may appear. If the Governor of a Territory had unjustifiably interfered with the judicial authorities, it ought to

be known, and articles of impeachment preferred against him. If, on the other hand, a judge had usurped Executive powers, let him receive that punishment which the offence deserves. If there was any branch of the Government in which purity and correct limitation of its powers were indispensable, it was the Executive. It should be kept within its proper bounds; for when permitted to encroach upon the other departments, and overleap the Constitution with impunity, there was an end to our boasted liberties. It had been suggested that, by resignation, the Governor of Florida had placed himself beyond the reach of impeachment; yet, if the facts alleged were true, it was the bounden duty of this Government and of the Representatives of the people, to express at least their disapprobation of measures which, if correctly related, were more outrageous than had ever before been witnessed in this country.

Mr. SMITH, of Maryland, observed, that if this resolution should pass, (and he hoped it would not, in any shape whatever,) it would introduce a discussion in which a vast deal of time would be unnecessarily consumed, and perhaps enable other Powers to put our Government in the wrong. It had been urged that this House was the grand inquest of the nation. But, he would ask, where was the complaint before us? Where was the testimony? None had been offered. No complaint had been made against the illustrious officer who had served his country with such distinguished honor, and yet we were called upon to try him, not only without evidence, but without even a complaint. Nor did he (Mr. S.) believe that any ground for complaint existed. The Governor of the Floridas was vested with all the powers of a Spanish Governor, and those powers included the paramount authority of a supreme judge. To these powers he believed the authority of Judge Fromentin was subordinate; but whatever the particular facts might have been, they were properly before the Executive, and did not require the interposition of this House.

Mr. RANDOLPH, who next spoke, said he did not mean to express any opinion as to the conduct of any of the parties implicated in the inquiries moved for by the gentleman from Maine. That opinion, if any he had, he said he should reserve until an occasion, at least more proper than the present, arose for its expression. But he must be permitted to say, that this was the first time that, in a deliberative assembly, he had ever heard the doctrine that, in a case of alleged misconduct on the part of public functionaries, inquiry was improper, because ultimately these public functionaries, or some one of them, might be proved to have been in the wrong. He recollected, he said, hundreds of cases—he had almost said thousands—in which motions had been made in the British House of Commons, by Mr. Fox, for the purpose of putting in the wrong—whom? The country? No; the Ministry. The Ministry was one thing—the country another. In England he knew that to be the case, and he hoped it might yet be the case here. It is proper, if we are in the wrong, said Mr. R., that it be told to the American people.

JANUARY, 1822.

Transactions at Pensacola.

H. OF R.

But suppose that we should choose to cover up this thing—to put our light under a bushel—is there any obligation on the part of Spain to do the same? Will not her diplomatists endeavor to put us in the wrong? Is it not our duty to spread this matter before the country in its true light? And God grant to all concerned a safe deliverance. Mr. R. said, was his prayer from the bottom of his heart. There was another view of this subject, which he wished to present. Standing here, utterly indifferent, not as between his country and Spain, but as between the individuals whose conduct is embraced by this inquiry—in the capacity of a Representative of the American people—he was desirous to have this matter inquired into, and to have all the information which the public safety and interest do not forbid, laid before the American people, and before this House. You are gravely told, said he, that the officers in question are now *functi officio*; that they are no longer executing the duties with which they were charged, and that it would be idle and ridiculous to impeach them when out of office. But does not the House perceive that we owe it even to the Executive Government to inquire into the matter? Is it only Mr. Jackson, who is understood now to have retired from office—is it only Mr. Fromentin, who are interested in the proposed inquiry? Without reference to either, or to the Spanish commissioners, or whatever else they may be; but in reference to our own people, and our own affairs, in which no foreign nation has a right to intermeddle, Mr. R. said, if there had been malfeasance on the part of one or of the other—and there was strong evidence that there had been malfeasances somewhere—did not the House see that the inquiry was due to the Executive, that its conduct, in regard to the act or acts, and to the agent or agents too, should be made known to this House? Mr. R. said he was no Pharisee in politics, any more than in religion; his inclination was rather the other way, to too great laxity; he was always disposed to give to the Executive any reasonable confidence, and he did not now wish to show a want of it; but if this inquiry were now refused, the inference would be irresistible, and to the manifest prejudice of the Executive Government of this land. Wishing to see that part of the Government stand as every other part of it should, he was in favor of this resolution, and opposed to the amendment proposed to it, which, he trusted, on this view of the subject, the gentleman from Tennessee would consent to withdraw. Mr. R. concluded by expressing his hope that he had not, by the slightest shade of insinuation, intimated his opinion on the merits of the parties concerned in this inquiry; for, he said, he had made up no opinion upon it, and felt himself qualified to act in the capacity of a juror between them. The subject having been stirred, said he, we cannot in decency, or with any sort of delicacy to the Executive Government, to say nothing of the other considerations which I have urged, refuse the inquiry that has been moved.

Mr. CANNON replied. He could not accede to the proposition of the gentleman from Virginia

(Mr. RANDOLPH) to withdraw the amendment. Entertaining the opinions he did, and believing that the case could not properly come before this House, it would be an abandonment of the dictates of his better judgment, were he to agree to the proposal. It was a subject, as he believed, peculiarly within Executive cognizance. It had been the tendency of this Government, for many years past, to take from the Executive its responsibility. For his part, he would put responsibility where the Constitution had placed it. It was the duty of the Executive to make the inquiry, and to decide upon it also; and he was unwilling that this House should assume the Executive responsibility. In relation to that part of the resolution which requested information respecting the delivery of Florida, Mr. C. had no objection that it should be adopted. It was not perhaps improper; but for this House to settle the quarrels of individuals, was not a course either dignified or expedient.

Mr. ARCHER, of Virginia, briefly reviewed the grounds of opposition to the inquiry proposed in the resolution. The principal argument, he said, amounted to no more than that no inquiry ought to be made lest it might end in the crimination of some officer of the Government. What was the nature of the transactions said to have occurred in Pensacola during the last Summer? Would any man deny that, if what was said was true, acts of the most despotic nature have been committed in that territory? Would any man deny that it had been asserted that an officer appointed by his Government, under the authority of law, has exercised the powers of a despot—powers more extensive even than ever was exercised by any Governor of Spain in the colonies of that country? Mr. A. adverted to the inquisitorial character constitutionally belonging to this House, and asked whether, when an officer or officers of this Government were charged with gross malversation in office, even inquiry was to be denied, for the reason which had been assigned, namely, that the inquiry might redound to the prejudice of that officer? Some of the occurrences reported to have taken place at Pensacola were, he said, merely matters of curiosity; but some of them were of great importance. If facts were correctly reported, these two extraordinary things had occurred: the Spanish population of Florida, after it became a territory of the United States, lost a part of the civil liberty they had previously enjoyed; and citizens of the United States, removing to that territory, had been denied the rights secured to them by the Constitution of the United States, as completely as if they had gone to Constantinople instead of Pensacola. Mr. A. did not affirm that such things had really taken place, but they were reported to have occurred. He did not undertake to say that guilt existed any where in regard to these reported transactions—he was far from imputing it without inquiry, and particularly to a man who had rendered important services to his country. But all circumstances combined to show that there ought to be an inquiry. If such doctrines had been acted upon, the offenders ought

H. OF R.

Transactions at Pensacola.

JANUARY, 1822.

to be brought to the bar of this House, and afterwards to condign reprobation. He did not say such things had been; but the reports on the subject were of such a character as involved the peace of the country, the character of the Government, and that of this House; and he, therefore, hoped the inquiry would be suffered to go on.

Mr. SMITH expressed his wish that gentlemen would construe his remarks in the manner in which they were made. He did not mean to say, nor did he believe, that an investigation would show our Government to have been in the wrong. On the contrary, he expressly stated his conviction that General Jackson had a right to do as he had done. Mr. S. had seldom been on a jury, but he had always understood that no indictment could be found, unless upon complaint made, or upon the positive, personal knowledge of one of the pannel. But what was this House called upon to do? They were asked to hold a grand inquest upon a distinguished individual—and that, too, without complaint, and without a particle of testimony to sustain it.

Mr. FLOYD would trouble the House with but few remarks on the subject. He had made up no conclusive opinion on the conduct which had been reported to have taken place in Florida. He was in favor, however, of the call for information. It had been said that the subject was about to be discussed in the Senate on the question of confirming the official appointment of one of the parties. But had we arrived at the time when it was not our duty to inquire into the conduct of our agents? Shall investigation be strangled? No, sir, let the truth come forth. It can do no harm to a righteous cause. Men and things may change, but principles never. The time was when Government was known by its acts, and when the representatives of the people did not fear to call for any information that concerned either the interest or the honor of their constituents. But has it come to this, that we can take no step without an intimation that we are permitted to do so? He hoped not; and he wished it might be made manifest, by the investigation proposed, that our Government has not been in the wrong. That it might lead to a discussion, was not an argument, in his mind, against the resolution. If it should take till the middle of May to discuss it, yet let it be discussed—for when we cannot discuss, said Mr. F., I shall be willing to go—to Spain!

Mr. WHITMAN.—The gentleman from Tennessee (Mr. CANNON) has told us that this a proper case for the Executive. But what can the Executive do? Has he the power to inquire, and try, and dismiss from office? Can he recall a Governor he has appointed, institute an inquiry into his official conduct, and punish him for an offence? No such Executive powers could be found; nor was there any such responsibility resting on the Executive as that gentleman had seemed to apprehend. After the appointment was made the responsibility of the Executive was exhausted. The gentleman from Maryland (Mr. SMITH) had feared lest the inquiry might find our Government in the wrong. For this very purpose he had pro-

posed the inquiry—to discover where the lurking mischief lies—and to put this Government in the right. If the Government or its agents had been in the wrong, the people ought not to be identified with them, or with a faulty individual. It was in this way only that the character of the nation could be retrieved, if it had been tarnished, and the argument of the gentleman was, therefore, in the teeth of his object. It had been said that an inquest can act only on complaint or personal knowledge. But could this apply to the grand inquest of the nation? Must a formal complaint be laid before us? Are the technical rules of legal process to fetter inquiry by the representatives of the people? or are we to shut our eyes against the light, unless it is introduced to us through the medium of complaint and legal evidence? If the great public protection of our liberty had been transgressed, (which there was but too much reason to fear,) it was our bounden duty to institute an inquiry; and the more elevated the offender, the more imperious did that duty become. If the Governor of the Floridas had performed so many meritorious actions, and acquired so much glory as to become the idol of the nation, so much more did it behoove the people to be on their guard. It was in this way that tyranny was most apt to creep in and destroy republican institutions. A popular demagogue, having performed a splendid achievement and dazzled the eyes of the people, is most dangerous, because least suspected. But it had been said that General Jackson was the supreme judge of Florida. But does his commission say so? Do the principles of our Constitution authorize this blending Judicial with Executive powers? It is a fundamental doctrine of our Government that these departments shall be kept distinct. No implication can justify their union in the same individual—nor can unconstitutional powers be imparted where none are possessed by the source from which they emanate. The people of Florida are entitled to the principles of our Constitution: and this union of executive and judicial powers is too monstrous to be defended. If this House is not competent to hold an inquest on this subject, by whom can it be done? By the Senate? That body has the power to judge upon articles of impeachment, but not to originate or conduct them. The inquiry, therefore, was proper for this House, and he hoped that the magnitude of the occasion would induce them to avail themselves of it.

Mr. BALDWIN expressed his regret that gentlemen had gone into the merits of the case upon a mere incidental motion that had grown out of a call for information. Tyranny, crime, usurpation, and outrage, had been placed before us confidently as if they had been proved to exist. If this were justly the case, no information could be wanted, for it would seem to have been already obtained. Mr. B. did not feel that his liberty was in danger from any thing that had taken place; and, so far as he had learned, the case in question somewhat resembled those controversies that frequently arise, when a witness or party withholds papers which it is his duty to produce. This House was not now a grand inquest for the first

JANUARY, 1822.

Transactions at Pensacola.

H. OF R.

time; and he (Mr. B.) was willing that all proper information should be laid before Congress, although he was not willing it should be done by a premature implication of personal character.

Mr. WRIGHT did not rise to enter into the merits of the case, and would confine his remarks to the propriety of bringing the subject before the House. He would ask, *quo animo*, was this evidence to be obtained? What was the object or consequence of impeachment? To convict of crime? No; that was confided to the criminal judge. The power of impeachment acts only on the office, and if the person arraigned holds no office, there is nothing whereon to act; and the man who is *functus officio* in regard to his office, is as much beyond the power of impeachment as if he were physically dead. Can we impeach a man for murder? No; but, if he has committed an offence that justifies an impeachment and deprivation of office, he may, after his conviction, be further turned over to the civil courts to answer for the violated laws of his country. How then could this House impeach Governor Jackson? He holds no office. He is not, therefore, amenable to the impeaching power. We cannot turn him out of office, for he is out already. How, then, stands the case of Judge Fromentin? His appointment is not confirmed by the Senate. He cannot be said to hold an office under the United States. His appointment is subject to the will of the President. It was therefore indelicate to interfere with that confirmation. Mr. W. alluded to the case of Judge Easton, in which these principles had been settled. Gentlemen were therefore travelling out of the record. They were giving a verdict before the evidence was heard. The President of the United States had told us that each of those officers had done what he believed they thought to be their duty. The case was now with the President, where it ought to rest. The office of Judge Fromentin is *in fieri*, or not *in fieri*, as the President pleases. In our anxiety to get ahead of the President and Senate, we should be careful not to go out of our sphere, and engage in an indelicate interference, from the apprehension of being out of business. Mr. W. would engage that we should have business enough on our hands for six months to come, without meddling with this controversy. There was no evidence before the House—nothing that could inculpate the judge, or prove that he had acted unworthily an American heart. Mr. W. knew both the individuals implicated, and entertained a high respect for them both. He believed the inquiry unnecessary; that it would lead to no valuable result, and he hoped the resolution would not prevail.

Mr. EDWARDS, of North Carolina, remarked that this was the first case in which he had known a mere call for information encountered by so warm an opposition. It had been an usual, if not a uniform practice, from courtesy, to permit such inquiries to be made. They were useful and salutary, and he could perceive no good reason why this inquiry should be so pertinaciously resisted. He hoped he had not arrived at the period when information was to be hid from the eyes of the peo-

ple. It was not now the question whether articles of impeachment should be drawn—it was a simple proposition for inquiry. If gentlemen wished to screen these individuals from imputation, they had selected a most unfortunate method to attain that object. To smother information is not the way to clear the obscurities of character. That reputation is the brightest which can best bear the light. Mr. E. did not pretend to know the merits of the case, but he would vote against no call for information that was not either palpably useless, or flagrantly improper. He hoped, therefore, the mover would withdraw his motion, out of charity to his friend.

Mr. SAWYER could perceive no reason for surprise that this resolution had been warmly resisted, especially when the mover came boldly out with an avowal that it was to lay the foundation of an impeachment. Mr. S. believed it was only calculated to excite the feelings of the House, without being productive of any benefit to the public. He did not wish for a revival of the Seminole controversy, and thought General Jackson had been persecuted enough already. He therefore moved, that the resolution be indefinitely postponed.

Mr. ARCHER disclaimed having given any opinion upon the merits of the case, and called upon the gentleman last up, for an explanation of his remark relative to the persecution of General Jackson.

Mr. SAWYER replied that the remark he had made, was occasioned by the observations of the mover of the resolution (Mr. WHITMAN) that it was to lay the foundation for an impeachment of General Jackson.

Mr. MONTGOMERY denied that he had any wish to persecute General Jackson, and believed he should vote against any mere motion for censure. If it stopped short of impeachment, his present sentiments would be opposed to it; but he wished to know whether the Governor of the Floridas was clothed with judicial powers, and whether the writ of habeas corpus would not lie in that territory. If such were the case, it proved that there were defects in the system, which it would be proper to remedy.

The motion for an indefinite postponement having been then seconded, the question was taken thereon, and lost.

Mr. RANKIN was opposed to an inquiry which, in its effects could only extend to a censure of one of the parties. Such an object was too small to engage the time of the House in an elaborate investigation. It appeared evident that an impeachment against General Jackson could not be sustained. A non-descript government had been organized for West Florida. It was, to all intents and purposes, a Spanish government, and depended upon principles neither suited to, nor adopted in, the United States. The only result likely to accrue from this inquiry was, a laborious and protracted investigation, of which the only result would be, that one might be shown to be right and the other wrong; without the power of inflict-

H. OF R.

Proceedings.

JANUARY, 1822.

ing any punishment upon either, except, perhaps, an expression of censure.

Mr. RANDOLPH believed that this was not the first instance in this House, though he hoped it would be the last, in which a proposition was in greater danger from its friends than its foes. It illustrated the force of the old Spanish proverb, "Save me from friends, and I will guard against enemies." Mr. R. felt himself bound to say that he could not assent to all the principles avowed by the mover. The President of the United States had called our attention to this subject; and yet, for one, he had been left as much in the dark at the end of the paragraph as he was at the commencement. He wished for information on the subject in some way or other. It had been said that the parties were not impeachable because they were not in office. He was sorry to hear such a construction of the Constitution supported: that by resignation of his office an offender might stave off an impeachment. The Constitution provides that upon conviction by impeachment, not only a removal from office may be the consequence, but a disqualification to hold any office in future. Mr. R. was not disappointed by the course the discussion had taken. It should not be forgotten that merit, however transcendent, had nothing to do with the question. Manlius, the saviour of the Capitol, was precipitated from the Tarpeian rock. Even the merits of the founder of our Government could not shield him from inquiry—and it is too well known to be concealed, were concealment even desirable, that towards the close of his administration his official conduct was looked at with a different eye by the different parties. Before he sat down, he should disclaim the doctrine which had been advanced, that the people of a territory had all the rights of American citizens. The fact was otherwise. None of our territorial subjects (for such he must call them) could possess those rights. They were not communicable to territorial governments. For himself, he detested pro-consulates. They were the governments of Bashaws, and he had not contributed to form or extend them. Yet, though they did not possess all the rights of the people of the States, this did not prove that they had no rights, or that the rights which they undoubtedly had, should not be protected. A proper examination would contribute to the healthy operations of the Government, and ought to be allowed.

Mr. WHITMAN replied—but his observations were not distinctly heard by the reporter. He was understood, however, to say, that his object did not contemplate an impeachment, nor even a censure, unless, when the facts should be developed, such measures should evidently become the duty of the House. His propositions were altogether hypothetical, and he should reserve his opinion of the facts until an investigation had disclosed their tendency and character.

The question was then put on Mr. CANNON'S motion, and negatived.

Mr. McLANE thought, if any inquiry was to be made, it should be broad enough to enable the House to avail itself of all the information of

which the case was susceptible. He wished the House to be put in possession of the sentiments and views of the Executive in relation to the subject. The conduct of his subordinate agents was called in question. The opinion which the President entertained has not been disclosed. It might, perhaps, if obtained, relieve the House from any further trouble. He therefore moved to add to the resolution a further request, that the President of the United States would communicate to the House such parts of the correspondence of the late Governor of Florida with the Executive as have not been heretofore communicated, and which may be consistent with the public interest to disclose, touching the proceedings of the said Governor during the period of his government of Florida.

The amendment was agreed to; when the question on the resolution, as amended, was taken, and carried.

THURSDAY, January 3.

Mr. RANKIN, from the Committee on the Public Lands, made a report on the petition of James McFarland, Hampton Pankey, and William Frizzell, accompanied by a bill for the relief of the said James McFarland; which bill was read twice, and committed to the Committee of the Whole.

Mr. KENT, from the Committee for the District of Columbia, reported a bill to repeal part of an act passed by the State of Maryland, in the year 1784, and now in force in Georgetown, in the District of Columbia, entitled "An act for an addition to Georgetown in Montgomery county;" which bill was read twice, and committed to a Committee of the Whole.

On motion of Mr. COCKE, the report of the Committee on Military Affairs, upon the subject of the employment of officers of the Army as clerks in the departments, and the extra pay allowed to them for such services, made at the last session of Congress, was referred to the Committee on Military Affairs.

Mr. Cook submitted the following resolution, to wit:

Resolved, That the Secretary of the Treasury be directed to report to this House the manner in which the several land offices of the United States were examined prior to the 1st day of January, 1818, the names and places of residence of the persons by whom such examinations were made; the respective compensation allowed to each individual so employed, and the whole expense thereof to the United States.

And, also, that he report the manner in which the same duty has been performed since the said first of January, 1818, together with the names, professions, stations, and place of residence of the persons who have been appointed to make such examinations; what officers each was appointed to examine: the reports made by each: the accounts presented for their respective services: the amount of money allowed to, or retained by each of them: whether any of them have during the said period been allowed or received any other compensation from the Government. If so, how much, and for what services rendered, or duty performed: and whether some plan may not be devised,

JANUARY, 1822.

Discipline of the Militia.

H. OF R.

whereby the same duty may be performed with equal advantage and less expense to the Government.

The said resolution was ordered to lie on the table one day.

On motion of Mr. TATNALL, the Committee of Revisal and Unfinished Business, were instructed to inquire into the necessity of continuing in force an act, entitled "An act to revive and continue in force an act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," passed on the 17th day of March, 1800.

On motion of Mr. SLOAN, the Committee on the Public Lands were instructed to inquire into the expediency of providing for the sale of those lands, the property of the United States, within the State of Ohio, which have been reserved on account of salt springs.

On motion of Mr. WHITMAN, the Committee on Naval Affairs were instructed to inquire into the expediency of authorizing the building and equipment of an additional number of small vessels of war, of a force not exceeding twelve guns each, for the purpose of protecting the commerce of the United States in the West India seas, and Gulf of Mexico; and to prevent smuggling and piracy.

The SPEAKER laid before the House a report of the Secretary of War, in obedience to the resolution of the 27th ultimo, calling for information relative to non-payment of certain debts contracted in the erection of the Madison barracks at Sackett's Harbor, in the State of New York, during the years 1815, 1816, and 1817; which report was referred to the Committee of Claims.

Mr. WALWORTH submitted the following resolution, viz:

Resolved, That the Committee on Military Affairs be instructed to inquire and to report to this House whether any, and, if any, what, alterations are necessary to be made in the component parts of the rations issued to the Army of the United States; and that the said committee be also instructed to inquire into the practicability of regulating the issue of ardent spirits in such manner as more effectually to preserve the health and morals of the soldiers.

The resolution was ordered to lie on the table.

The report on the petition of Joseph Wheaton was taken up, and referred to a Committee of the Whole; and the report on the petition of Levi Hathaway was reconsidered, and recommitted to the Committee of Pensions and Revolutionary Claims.

DISCIPLINE OF THE MILITIA.

Mr. CANNON, from the committee on the subject of the militia, reported a bill to provide for the discipline of the militia of the United States; which bill was read twice, and committed to a Committee of the Whole. The bill is as follows: A Bill to provide for the discipline of the Militia of the United States.

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That, once in every year, all the commissioned officers of the respective brigades, in

each State and Territory of the United States, including the aids to the brigadier general, the brigade majors, adjutants, quartermasters, sergeant majors, quartermaster sergeants, and drum and fife majors, together with all the sergeants from each captain's company, shall be assembled together, and encamped within such brigade, at such time and place as may be provided by the Legislature of the respective States or Territories, for the purpose of being instructed and disciplined in camp duty, field exercise, and military science; and shall be encamped and kept together not less than — days, nor exceeding — days; during which time they shall be regularly and assiduously trained, according to the discipline prescribed for the Army and Militia of the United States, under the command of the brigadier general, or officer commanding the brigade.

SEC. 2. *And be it further enacted*, That the officers, non-commissioned officers, and musicians, as aforesaid assembled, shall be entitled to receive from the United States — for the term of service in the encampment aforesaid, and — cents per mile for the distance each officer, non-commissioned officer, or musician, encamped as aforesaid, lives from said encampment, and one ration per day each; but no further emoluments whatever; which rations it shall be the duty of the brigade quartermasters to contract for, and furnish, at the expense and on account of the United States; and in contracting for and furnishing the same, and making returns thereof, shall be governed by such rules and regulations as may be adopted and furnished by the Secretary of War, under the direction of the President of the United States.

SEC. 3. *And be it further enacted*, That it shall be the duty of the President of the United States to cause copies of the system of discipline, and rules which prescribe the duties of officers of the Army and Militia of the United States, to be distributed to each Governor of a State and Territory; also, to each general, and field officer, and brigade inspector, of the militia, who shall pursue and be governed by the same in training under the authority of this act.

SEC. 4. *And be it further enacted*, That it shall be the duty of the Secretary of War, under the direction of the President of the United States, as soon as is practicable, (after receiving notice from the Governor of any State or Territory, that the Legislature thereof shall have made provision for carrying into effect the provisions of this act to provide for, and furnish, each brigade the tents and camp equipage necessary for the purpose aforesaid, agreeable to the requisitions of the Governors of the States and Territories aforesaid, made to the Department of War.

SEC. 5. *And be it further enacted*, That the tents and camp equipage, that may be furnished under the foregoing provisions, shall be receipted for by the brigade quartermaster, or such officer as may be designated for that purpose by the Executives or Legislatures of the respective States and Territories, whose duty it shall be to take charge of the same, and have them kept free from damage during the interval between said encampments, and to distribute them agreeably to the orders he receives from the commanding officer at the commencement of each term or encampment; and an account of the articles furnished to each State and Territory, under the provisions of this act, shall be kept in the Department of War; also, by the adjutant general of each State and Territory, under the direction of the Executive thereof.

SEC. 6. *And be it further enacted*, That it shall be the duty of the brigadier major, or such person as may be appointed by the authority of the respective States and Territories, to attend the encampment and training of the officers, con-commissioned officers, and musicians, aforesaid, under the command of the brigadier general or commanding officer of the brigade, during the time of said annual encampment, to inspect the arms and accoutrements of the officers and musicians, so assembled, superintend the encampment, the exercise and manœuvres, and introduce the military discipline before described, throughout the brigade, agreeable to the laws of the State or Territory, and of the United States, and execute such orders as he may from time to time receive from the commanding officer aforesaid; and it shall be the duty of the colonel or commanding officer of each regiment to keep correct muster-rolls of the officers, non-commissioned officers, and musicians, encamped as aforesaid, and to report all delinquents who may fail to attend such encampment, in such manner, and at such time, as the Legislatures of the several States and Territories may provide.

SEC. 7. *And be it further enacted*, That it shall be the duty of the brigadier general, or commanding officer of said encampments, to cause muster and pay rolls to be made out on the last day of each encampment aforesaid, with the proper remarks, and return one copy of each to the adjutant general of the State or Territory in which he resides; and, also, a copy of each to the person appointed to pay the officers and musicians for the service aforesaid, previous to the time appointed for paying the same.

SEC. 8. *And be it further enacted*, That the officers, non-commissioned officers, and musicians, assembled for the purpose of being disciplined under the provisions of this act, shall be subject to the rules and articles of war, in the same manner as if they were in the actual service of the United States, and may be tried immediately after the commission of any offence by a court-martial ordered and held as the brigadier general or officer commanding the said encampment may direct; but the sentence of such court shall not extend beyond the cashiering of an officer, suspending his pay and imposing a pecuniary fine, not exceeding — dollars, and in the case of cashiering an officer, the decision of said courts-martial may be re-examined and confirmed, or annulled, agreeable to the laws of the State or Territory in which it may be held. No substitute shall be received in any case whatever to discharge the duties required under the provisions of this act; and all fines and penalties that may be imposed shall be collected in the same manner as other militia fines, and paid into the Treasury of the United States.

SEC. 9. *And be it further enacted*, That the sum of — thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of carrying into effect the provisions of this act.

SEC. 10. *And be it further enacted*, That, as soon as any State Legislature shall have provided by law for carrying into effect the requisitions of this act, every private within such State, liable to be enrolled, and to do military duty in the militia, shall be exempt from the performance thereof, for and during the term of one year, and from year to year, on his paying annually such sum, not exceeding ten dollars, nor less than five dollars, to such person as the State Legisla-

tures shall prescribe, and producing to the captain of the company to which such private belongs a certificate of such payment prior to the first day of May in each year. The sums of money so paid shall be appropriated exclusively towards meeting the disbursements contemplated by this act: *Provided, always*, That the foregoing exemption shall not exonerate such privates from any liability to be called upon, either in time of war, or to suppress insurrections, repel invasions, or execute the laws of the United States, or of the several States.

The motion offered yesterday by Mr. SCOTT, calling for information respecting the settlement of land titles in the State of Missouri, was taken up and agreed to.

Mr. CAMPBELL, from the committee on the subject of the apportionment of representation according to the fourth census, presented a table, showing the results of the various ratios which had been prepared for the committee, and on his motion it was ordered to be printed.

NATIONAL ARMORY.

Mr. J. T. JOHNSON, of Kentucky, submitted for consideration the following resolve:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of establishing an additional national armory, to be located on the western waters.

In offering this resolution Mr. J. observed, that there were various reasons which urged him to offer a resolution, which had for its object the establishment of a national army in the western country. He was apprized that this subject had been before Congress on several occasions, and had been rejected; but when he considered its intrinsic merit and justice, he would not anticipate an unfavorable result. He said there were considerations connected with the measure which were dear to every American bosom. It had been considered that the militia constitute our surest guarantee in times of danger. They are our shield for protection. In order, then, to enable them to act efficiently, they must be armed and disciplined. This subject, he observed, was not novel; there were two national armories in the United States—one established at Harper's Ferry, in Virginia, the other at Springfield, in Massachusetts; the one supplying the middle and southern, the other the northern section of the Union; and both occasionally supplying the demand from the West. It would be recollected that those in operation were insufficient to meet the demands of the several States. His information enabled him to state, that about 40,000 stand of arms had been transported to the West during the war, and about 30,000 since; that the cost of transportation was about equal to one dollar on each firelock. He considered himself safe, then, in stating, that the mere item of transportation had amounted to \$100,000. He felt sensible of the obligations which bound them to adhere to a system of perfect economy. And, upon a fair investigation, he was satisfied the measure would be considered economical; that, in acting on measures of national import, we ought not to limit our views to

JANUARY, 1822.

Military Appropriations.

H. OF R.

the present moment. We ought to extend our views ahead, and consider the consequences in a series of years. He observed, that the growing strength, resources, and importance of the West, demanded the attention of Government in a legitimate expenditure of public money. The West had looked with pride and pleasure at our navy, that had shed so much lustre upon our national character. They had looked with equal satisfaction at those fortifications which lined our seaboard. These vast objects of national expenditure had not alienated the attachment of the West from those sections of the country. On the contrary, they were animated by all those kindred feelings and sentiments of interest and affection which ought to pervade each American bosom. He observed, that the nation might draw upon their resources, their patriotism, and courage; and they would present themselves before Congress, claiming those equal rights and privileges guarantied to them by the Constitution of their country, and which it would be the pride and pleasure of the national legislature to dispense. He observed, he would not impede the progress of this measure by pointing out any particular spot for the location; for, although he might be influenced by his partialities as to place, yet his great object was to obtain the adoption of the measure, after which the site could be fixed by those who may be considered impartial and uninfluenced by any sectional feelings. Whether this subject was considered as to its justice, policy, or economy, they all combined to invite us to its adoption. This he considered as merely a preparatory step, and that it would require three or four years to put the establishment into complete and successful operation; that it was deeply interesting to the western country, and he hoped the motion would prevail.

On request of Mr. Cocke, of Tennessee, who desired time for a consideration of the subject, and by consent of the mover, the resolve was ordered to lie on the table for the present.

MILITARY APPROPRIATIONS.

Mr. SMITH, of Maryland, then moved that the House do resolve itself into a Committee of the Whole, to take into consideration the bill making partial appropriations for the support of the Military Establishment for the year 1822. [This motion, being not in regular order of business, required an unanimous vote to carry it.]

Mr. Cocke, of Tennessee, said, that he would not agree, for one, to go into Committee on this subject, unless the gentleman from Maryland would show good reasons for dispensing with the regular orders of the day to get at this bill. Perhaps it was not proper for him now to state his objections, but it might not be amiss to observe, that so far as he had been conversant in the business of this House, it appeared to him that members were scarcely warm in their seats, before appropriations of money were asked for, although at the preceding session all that had been asked for had been granted. He had hoped, he said, after what had passed about the appropriation bills at the last session, the year would have been permit-

ted to roll round before another application was made for appropriations. The course heretofore pursued on this subject, he said, had been such as to put it almost out of the power of the members of either House to ascertain what was the extent to which appropriations had heretofore been made, or to which they were now necessary. He could not, therefore, yield his consent to take up this bill out of its order, unless he was satisfied that the interest of the Government required it. He presumed, he said, that this bill was not brought forward to make up any deficiency in the appropriations of last year, or, in other words, to provide for any excess of expenditures. The bill, he said, proposed to appropriate money for three objects; one of which was for the service of the Quartermaster's department. Look, said he, at the appropriations for the last year—

Mr. SPEAKER here called the attention of Mr. Cocke to the rule, which prohibits debate on a question of priority of business.

That being the rule, Mr. C. said he would suspend his remarks.

The SPEAKER: Does the Chair understand the gentleman as objecting to going into Committee of the Whole as proposed?

Mr. Cocke. Most positively, sir.

So the necessary unanimous consent not being given, Mr. SMITH got at his object another way, by moving to postpone all the orders of the day which precede that to which he had referred; which motion was agreed to—68 to 84; and the House accordingly resolved itself into a Committee of the Whole on the subject, Mr. BALDWIN in the chair.

Mr. SMITH, of Maryland, handed to the Chair two letters from the Secretary of War to the Committee of Ways and Means; which were read.

[The letters, dated December 17 and 22, which Mr. S. handed in, state, that the appropriations for the Quartermaster General's department, and the Indian department, are exhausted, and that the appropriations for the pay and subsistence of officers of the Army will be so at the close of the year; and that a partial appropriation, for 1822, of \$150,000 for the Quartermaster's department, \$100,000 for the Indian department, and of \$300,000 for the pay of the Army, is necessary. There is also a deficit in the appropriation for Revolutionary Pensions, for 1821, of \$451,866, and that sum is necessary to complete the payments to pensioners for the year 1821.]

Mr. S. remarked that the appropriation bill of the last year had reference only to the expenditures of that year. It was not prospective in its operation. We had now entered upon a new year, for the necessary disbursements of which no provision had been made. Unless, therefore, an anticipation was provided for, to cover the expenditures that should accrue before they could be met by the annual general appropriation bill, usually passed towards the close of the session, the wheels of Government must stop their motion. The first appropriation regarded the quartermaster's department. In this instance it was indispensably necessary to look forward. Expenses were weekly and daily accruing, which must be

H. OF R.

Military Appropriations.

JANUARY, 1822.

paid, or the operations of that department must cease. Nor could this be attended with injury; for the amount that should be now appropriated would be deducted from the sum total of the estimate to be presented, when the general appropriation bill should be brought forward, embracing the total amount of expenditure in that department for that year. Of the same character was the item in relation to the pay of the army and subsistence of the officers. There had been an effort to limit and control the disbursements in this particular, but the means resorted to had failed of complete success. But this also would be subject to examination, and deduction from the total estimate when the general appropriation bill shall be finally acted on. Mr. S. presented to the consideration of the House a statement of the various expenditures that had occurred in relation to the Indian department, showing the disbursements that had been made from the year 1814 to the year 1821, in which the minimum expenditure was two hundred thousand dollars. A greater sum for the current year was not contemplated by the Secretary. It was necessary, however, as well for the purposes of wholesome economy, as the preservation of national faith, that there should be no chasm or stoppage in the fulfilment of our contracts, or such disbursements as were authorized or directed by our laws. The Indian agents resided at a great distance from this Government, and a continuity of supplies was essential to the harmony of the parties and the good faith of the country. It would also be recollected that this item also would be taken into the account when the general appropriation should be under consideration. With respect to the amount intended to be appropriated for the revolutionary pensioners, he would observe that the Secretary of War had expected to be enabled to pay their claims from the surplus moneys of the preceding year. But it now appears that there is a deficit of four hundred and fifty-one thousand dollars, that should have been granted to meet the necessary disbursements. The consequence has therefore followed, that, from the third of September, they have been refused payment. The general appropriation bill cannot be expected to be passed in time to meet their just expectations in all the various sections of this country, on the next semi-annual day of payment, viz: on the third of March next. Unless this anticipation, therefore, is made, they will be compelled to subsist for the next half year also on private or public charity. The winter had now set in, and he could not but hope that the war-worn soldier would be enabled to sustain the winter's cold by the warm and cheering influence of his country's gratitude. As it was not in his power to foresee any reasonable objection to the appropriations asked for, he hoped the committee would find no difficulty in giving them their cordial support.

Mr. TRACY thought that when bills passed this House, their titles should correspond with the object they profess to have in view. The correct title of this bill, as he understood it, should have been "a bill to supply the deficiencies of appro-

priations for 1821." This bill, presented by the Committee of Ways and Means, was reported some days ago—before the year 1822 had commenced. It was evidently of a retrospective character. He would be glad to be informed how much had been previously granted, and how it had been previously expended. In relation to the Indian department, one hundred thousand dollars were called for to meet "current expenses." But of this sum we are informed that seventy thousand dollars have been already expended, or are now due, owing to the deficient appropriation of the last year. Mr. T. then adverted to the statement made by the chairman of the Committee of Ways and Means, and endeavored to show that the amount now asked for in this item related to a previous expenditure and not to a prospective disbursement. His particular objection to this part of the bill was, that it did not carry upon its face its true name and character. He had, however, a general objection to appropriations of this sort, which extended not only to the Indian department, but to the military service, that the disbursements were not sufficiently limited and distinct. The appropriations for different years should be clearly marked. They should not run into each other. If they were permitted to become thus intermixed and confused, it was impossible to limit, define, or restrain the public expenditure. Mr. T. contended, in respect to the deficit proposed to be supplied for the revolutionary pensioners, that the passage of the bill would not conduce to their relief or comfort, as no payment would be made to them prior to the 3d of March. He thought the information given was not sufficiently explicit, and there was reason to apprehend that a loan would be called for before the session should have expired. Should such a result be likely to ensue, it was desirable to know the worst of it at an early period of the session.

Mr. FLOYD remarked that, for several years past, we have heard it said, over and over again, that a greater economy was about being introduced into the expenditures of the War Department, and each year was to produce some improvement in that respect, the last being the most economical. Now, Mr. F. said, if the War Department had been managed for the past year with more economy than it had been previously, he appealed to the judgment of every member of the House, whether its affairs could have been rightly administered heretofore, seeing that, even in this era of economy, the expenditures had exceeded the appropriations. Every year the House was presented with such a bill as this, for making partial appropriation; and every year the annual appropriation bill was put off to the latest hour. Last year, it was almost 12 o'clock on the last night of the session, if not past, before it finally passed. Mr. F. adverted to the appropriation proposed for the Indian department, for which he intimated that he had no great partiality. Last year, it appeared that upwards of \$300,000 had been appropriated for this department, and now another hundred thousand was asked for. He wished to know how this deficiency arose, when the objects of expenditure were

JANUARY, 1822.

Military Appropriations.

H. OF R.

specific and designated by Congress. Unless some good reason was given why the bill should immediately pass, he was opposed to acting, at least on this item of it, for the present. In proper time, he believed he should be able to show that great part of the expense of this branch of the service might be wholly saved to the United States.

Mr. SMITH, of Maryland, in reply, observed that a great part of the information asked for by the gentleman from New York, (Mr. TRACY,) would be more properly inquired into when the general appropriation bill should be under discussion. That gentleman had inquired whether the advances now asked for were included in the general estimate of expenses for the current year. Mr. S. said, he did not know that the estimate had been completely made out—at any rate it was not before the House. He could only state his opinion that they were, and this for the alone reason that such had been the usual course of proceeding. It was sufficient for him to say, that these sums had been asked by the Secretary at War, for the purposes to which they relate. The general objection to appropriations has hitherto been, that they have been too late; that they have been introduced at a period when it was difficult to canvass and act upon them advisedly. The objection now is, that it is brought forward too early. To the objection that the title of the bill did not disclose its true object, and that, instead of being intended for the purpose of meeting the expenditures of the present year, its object was to supply the deficit of the last, Mr. S. would only reply on this point, that the Committee of Ways and Means had taken for granted all that the Secretary at War had officially communicated to that committee as true; and that his letters do not ask for an appropriation to cover a previous deficit, but to meet future disbursements. In reply to the gentleman from Virginia, (Mr. FLOYD,) he would remark, that the gentleman was mistaken in supposing that the appropriation asked for in relation to the Indian department had respect to the Indian treaties—that was a matter by itself, and was a subject for separate and specific appropriation. This, which was now asked for, had reference to the provisions necessary for the fulfilment of trade with the Indians—to rations, articles to be supplied under existing laws, as ploughs, harrows, and other implements of husbandry. It was not a definite expenditure, nor subject to definite limitation. The Secretary of War had endeavored to define it, but had hitherto found it impracticable. He had asked one hundred and seventy thousand dollars the last year for the purpose, and only one hundred thousand was granted; and hence, it was not extraordinary if a deficit should be found.

Mr. TRACY would not, by any means, be understood to imply the remotest doubt of the veracity of the Secretary of War. He had not distinctly heard the communication from that Department when it was read from the table, but he had supposed, from the whole tenor of the application, that it was calculated rather to supply deficiencies of the past than to provide for the contingencies of the future. And if any thing were wanting to

lead him to such a conclusion, it was fully supplied by the remark of the chairman of the Committee of Ways and Means, who observed, before he sat down, that only \$100,000 were appropriated by the last Congress to supply a contingency that required \$170,000, and that hence a deficit of \$70,000 was necessarily created. Mr. T. wished for all the information on the subject which it seemed to be in the power of the chairman of that committee to impart. He was apprehensive, from the light that had been shed upon the subject, that a deficit would be found of a million and a half, and that the appropriations for the current year for the War Department would not fall short of six millions. It did not appear that retrenchments could be made, and he was desirous that no information should be withheld, and that, if a loan should become necessary, it might be immediately made known.

Mr. COCKE made some remarks on what had fallen from the chairman of the Committee of Ways and Means in respect to the proposed appropriations for the Quartermaster General's department and the Revolutionary pensioners, and expressed his opinion that there must be some mistake about both these items. With regard to the proposed appropriation for the Indian trade, he asked whether any gentleman in the House was sufficiently acquainted with the details of this subject to say, from his own knowledge, whether or not the money asked for ought to be appropriated. Committees on the subject of Indian trade and affairs had, indeed, been appointed, but they had not reported; and he thought it premature to be appropriating the public money until the House had satisfactory information that it was necessary to appropriate it. With this view, Mr. C. moved that the Committee now rise, report progress, and ask leave to sit again.

A few explanatory remarks were made by Messrs. SMITH and BUCHANAN, which, upon the motion before the House, were intimated to be out of order. When the question upon rising and reporting was put, and negatived.

Mr. ROSS had expected that, when this bill was taken up, it would be examined and discussed by sections, and the blanks filled in rotation. But the general merits of the bill had been gone into. He did not rise to express any doubts or objections to the general features of the bill. In respect to the appropriations for the Quartermaster's Department, and the pay of the officers and subsistence of the army, he was disposed to yield to the reasons that had been already advanced in favor of their adoption. In respect, however, to the Indian department, he thought it his duty to observe, that the House was not sufficiently acquainted either with the extent or manner of its disbursements. So far as it related to the item of rations, he thought it would be found that very unwarranted expenditures had been made. The difficulty was, that the amounts were made up in gross, and not in detail; and, if strict inquiry should be made, it would be found that, whenever an Indian treaty of any importance was to be made, all the inhabitants of the country round about flocked to the

H. OF R.

Military Appropriations.

JANUARY, 1822.

place, and rations were indiscriminately bestowed, as well upon the whites as upon our red brethren of the forest. Tables were spread at which four hundred of our people would partake at once—and this, too, under the guise of conciliating the friendship of the Indians. What physical or moral connexion there was between a dinner by the whites upon the bounty of the Treasury, and the conciliation of Indian friendship, it might be difficult to comprehend, but this he could say, that it resulted in a very serious addition to the expenditures of the Indian department. Great complaint had been made, and he was inclined to believe that these rations were more expensive to the Government than the items of ploughs and harrows. Nor was this the only complaint that had been made. It had been said that the drafts for these hospitalities were made upon the Treasury in available funds—that the agents pocketed the premium or difference between the standard medium of Philadelphia and the depreciated currency of the West, and that the public suffered no inconsiderable loss at both ends of the expenditure. At all events he thought it a matter deserving of examination, for it was very apparent that it was a department susceptible of great abuse.

MR. SMITH concurred fully in the sentiments generally advanced by the gentleman who had just sat down. It would not be lost sight of, however, that the appropriation asked for was not to cover a deficit, but to meet impending demands. Mr. S. referred to the letter of the Secretary of War on the table, and remarked that whatever deficit had occurred, or from whatever cause it might have arisen, was not now a proper object of inquiry. It would become a suitable topic of discussion when the general appropriation bill should pass in review. Mr. S. then adverted to a misapprehension of his remarks which the gentleman from Tennessee (Mr. Cocke) had made in relation to the Paymaster's department, and contended that, so far as related to the subject of revolutionary pensions, he was fully borne out by the letter from the Secretary of War. If he could foresee any possible injury that could accrue from the passage of the bill he would not insist upon it—but believing as he did that both the interest and the credit of the country required its adoption, he hoped it would be passed without needless delay.

MR. FLOYD submitted a few remarks in reply, which were not distinctly heard—when the question was taken on filling the blank, in relation to the Quartermaster's department, with the sum of \$150,000, and carried.

MR. SMITH moved to fill the blank for the current expenses of the Indian department, with the sum of \$100,000.

MR. TRIMBLE moved to strike out the 8th and 9th lines of the bill, containing a provision for that department. He admitted the expediency of the appropriations asked for in relation to the other departments, and expressed his belief that economy and justice required them. But, in relation to the Indian department, he thought it stood upon a different ground. The bill professed to have relation to current expenses—and it was in that point

of view that he should oppose it. If it had reference only to the past, and was asked for merely to make up arrearages, he should cheerfully give it his assent. But it was notorious that the system heretofore practised upon in relation to our Indian affairs was by no means universally approved. A plan was now agitated to alter it, which he hoped would prevail; but, if this appropriation is made, it goes to continue, ratify, and confirm the present system, and perhaps commit us against any subsequent alteration. If it was asked for a deficit, he would vote for it; but he could not lend his sanction to the continuation of a system that he believed to be pernicious.

MR. CHAMBERS hoped the motion would prevail. He was disposed to carry on the operations of Government, but was not willing to vote for the appropriation of \$100,000, until he could distinctly see to what purpose it was to be applied. Under the title of a partial appropriation, we were now called upon to vote for a sum adequate to a whole annual expenditure. He hoped the House would take the subject of the Indian department into serious and deliberate consideration; and with that view he would move that the Committee rise and report progress.

The question was taken thereupon, and negatived.

MR. WOOD remarked, that the Indian system continues only to the second day of June next, as would appear if the gentleman from Ohio had adverted to the law upon the subject. The reason, therefore, which had been urged, inevitably failed; for no anticipated appropriation now to be made could commit, sanction, or in any way continue or affect the system after the 2d of June. Mr. W. believed some alteration was necessary in the system, but this was not the proper time or place, in which to discuss that question. He thought the appropriation was necessary to meet the expenditures that had been already authorized.

MR. TRIMBLE observed, that it made no difference whether the system expired on the 2d of June or the 2d of doomsday. The fact was, it was evident that \$70,000 were wanted for arrearages, and he was willing to give it; but he was not willing to fasten upon us a system that was pregnant with incalculable mischief.

MR. SMITH replied at some length in explanation.

MR. WRIGHT expressed his confidence in the respective departments of the Government, and did not believe they would ask for more extensive appropriations than were necessary for the public credit and advantage. If the call was not met, how were the Indian treaties to be fulfilled? He was not in favor of the missionary system. When the Supreme Ruler of the Universe placed the savages where we find them, he put the great law of nature in their hearts. But, if this appropriation was withheld—if the annuities were unpaid—what would prevent the savages from taking the lives of our people on the frontiers, for this violation of the public faith?

The question was then taken on filling the blank

JANUARY, 1822.

Proceedings.

H. OF R.

with the sum of one hundred thousand dollars, as proposed by the committee, and carried.

Mr. TRIMBLE moved to amend the bill by striking out that part of the section relating to the Indian department which follows the word "for," and including to "current expenses," and to insert, in lieu thereof, the words "arrearages of the Indian department for 1821, seventy thousand dollars."

Mr. SMITH opposed the motion. He thought it was well, in making an appropriation, to confine ourselves to what was asked. The Secretary of War had asked for an appropriation to carry into effect existing treaties for the year to come, and not to supply deficiencies for the year that is past. The gentleman from Kentucky (Mr. TRIMBLE) proposes to deny him what he asks, and to give him what he does not ask.

The question was then taken, and the motion negatived.

Mr. SMITH then proposed to fill the blank for the pay of the army, and subsistence of the officers, with the sum of three hundred thousand dollars, which was put and carried.

Mr. SMITH also proposed to fill the blank for the deficit in the appropriation for Revolutionary pensions with the sum of \$451,886 57, which was put and carried; and thereupon the Committee rose and reported the bill as amended to the House.

In the House, the question of concurrence was taken on all the provisions of the bill (except that which provides for the Indian department one hundred thousand dollars, which, on motion of Mr. Ross, was not included) and carried.

Mr. Ross moved that the question of concurrence, so far as it related to the appropriation for the Indian department, be taken by yeas and nays.

The motion was agreed to, but, before the question was put, the House adjourned.

FRIDAY, January 4.

Mr. LATHROP, from the Committee of Revisal and Unfinished Business, to whom the subject had been referred, reported a bill to continue in force "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia;" which bill was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of Thaddeus Mayhew, accompanied by a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. NEWTON, from the Committee on Commerce, to whom was referred the petition of Daniel B. Dash, reported a bill for the relief of the representatives of John B. Dash; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. ALEXANDER SMYTH, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of increasing the pension of William Fields, a soldier who was wounded in the war of the Revolution.

The Committee on the Judiciary, who were instructed, by resolution of the 6th ultimo, "to

inquire into the expediency of further providing by law for the prevention of duels among persons employed in the civil, military, and naval service of the United States," were discharged from the further consideration thereof, and the resolution was laid on the table.

Mr. BALDWIN, from the Committee of Manufactures, to whom was referred so much of the President's Message as relates to manufactures, and the promotion of the national industry, reported, as he stated, by instruction of a majority of that committee, the following resolve:

Resolved, That it is inexpedient at this time to legislate on this subject."

And the resolve was ordered to lie on the table.

On motion of Mr. BUTLER, the Committee of Ways and Means were instructed to consider the expediency of changing the duties on all kinds of paper imported, from ad valorem to specific duties.

Mr. METCALFE submitted the following resolution viz:

Resolved, That the President of the United States be requested to submit to this House any information which he may have of the condition of the several Indian tribes within the United States, and the progress of the measures hitherto devised and pursued for their civilization.

The resolution was ordered to lie on the table for one day.

The resolution moved by Mr. CUSHMAN on the 28th ultimo, for directing the Committee on Revolutionary Pensions to revise the pension law of March 18, 1818, or of so modifying it, "that, by lessening the quantum of bounty to individuals its provisions may be extended to certain descriptions of Revolutionary soldiers in reduced and necessitous circumstances, though not absolutely dependent on public or private charity," was, on his motion, taken up and agreed to.

A message from the Senate informed the House that the Senate have passed bills of the following titles, viz: "An act for the relief of the legal representatives of Manuel and Isaac Monsanto, deceased;" and "An act for the relief of John Holmes." The Senate have also passed a resolution for the appointment of a committee, jointly with one to be appointed on the part of the House of Representatives, to revise the rules and orders by which the business between the two Houses shall be regulated, and they have appointed a committee on their part; in which bills and resolution they ask the concurrence of this House.

Mr. BLAIR submitted the following resolution:

Resolved, That the President of the United States be requested to cause to be laid before this House a statement of the whole number of commissions of bankruptcy which have been taken out in the districts of Virginia, Maryland, Pennsylvania, and New York, under the act passed the 4th day of April, 1800, "to establish an uniform system of bankruptcy in the United States;" the number of those cases in which a full settlement has been effected; the dividends received by the creditors, and the amount of the expenses under each commission.

The resolution was ordered to lie on the table one day under the rule.

The SPEAKER presented to the House a communication from the Secretary of the Treasury, containing a report from the Director of the Mint; which was ordered to be printed and laid on the table.

The SPEAKER also presented to the House a communication from the Treasury Department, relative to sick and disabled seamen; which was referred to the Committee on Commerce, and ordered to be printed.

EXAMINATION OF LAND OFFICES.

The following resolution, moved yesterday by Mr. Cook, of Illinois, being under consideration:

Resolved, That the Secretary of the Treasury be directed to report to this House the manner in which the several land offices of the United States were examined prior to the 1st day of January, 1818; the names and places of residence of the persons by whom such examinations were made, the respective compensations allowed to each individual so employed, and the whole expense thereof to the United States.

And, also, that he report the manner in which the same duty has been performed since the said 1st day of January, 1818—together with the names, professions, and stations, and place of residence, of the persons who have been appointed to make such examinations; what offices each was appointed to examine, the reports made by each, the accounts presented for their respective services, the amount of money allowed to, or drawn, or retained, by each of them; whether any of them have, during the said period, been allowed or received any other compensation from the Government—if so, how much, and for what service rendered or duty performed—and whether some plan may not be devised whereby the same duty may be performed with equal advantage and less expense to the Government.

An inquiry being made of the mover by Mr. COCKE, as to the scope and object of it—

Mr. Cook said it would be seen, by the latter clause of the resolution, that he was desirous of ascertaining whether some mode might not be adopted, whereby the annual examination required to be made into the condition of the several land offices of the United States might be effected, at a cheaper rate than at present, without injury to the Government.

He understood, that, about the period stated in the resolution, 1818, there had been a material change made in the mode of examination; that, prior to that period, the course pursued was to appoint some intelligent and discreet person in the vicinity of each office, to perform that service, and to pay them for the time actually employed in performing it. But, subsequent to that time, individuals had been appointed to go from this city and other places, to as many of the land offices as the Secretary of the Treasury might choose to assign to them, receiving therefor a compensation fixed at his pleasure. The first plan, he understood, prevailed until about the period he had stated, though, as to the precise time of the change, he might be mistaken. Under that plan, the officers, not knowing when they were to be called upon, were necessarily required to be in readiness, at all times, to make a fair exhibition of their books, and the money on

hand, and the delinquencies of those officers previous to that period, he understood, were far less, in proportion to the length of time, than they had been since. Under the new system, they were generally apprized of the approach of the examiner, and had opportunity, if they had address to accomplish it, to borrow money, either from banks or friends, to show merely, and thereby to avoid detection of delinquency. To enable the House, therefore, to determine on what plan was necessary to be adopted on this subject, it was highly proper to be apprized of the course pursued heretofore; and this could only be done by a report to that effect from the Treasury Department. That the Government had sustained great losses by the delinquency of its officers, was well known to all who had attended to the official reports on that subject; and, if a practical remedy could be adopted, it was high time to do it. Mr. Cook said it was true, the resolution called for information which did not seem to be embraced within the scope of that particular object. But, if fame had spoken truly, there was information connected with the course recently pursued by the Treasury Department, which had a serious bearing upon the best interests of this country, in a political point of view. The Constitution of the country had wisely provided, that no member of Congress, during his membership, should hold any office under the Government of the United States. The Executive conferred appointments, and, if members of Congress could, during their continuance to hold their seats, hold such offices, it was plainly foreseen, that the Executive might surround himself by a swarm of office holders, and thus destroy their virtue, independence, and fidelity; and that the rights of the people might thus be sacrificed at the pleasure of the Executive. In addition to this Constitutional bulwark thrown around the representatives of the people, there was a law which had been on the statute book since the year 1808, which forbids any member of Congress from either directly or indirectly entering into contracts with the Government or any of its officers, and declares that, upon conviction thereof, he shall be adjudged guilty of a high misdemeanor, be subject to a fine of three thousand dollars, and bound also to refund all money received under such contract. Thus it would be seen that a member of Congress under the Constitution could not hold the office of postmaster in the most petty village in the country, nor even contract, where the door to fair competition in bidding was open, to carry the mail to such petty office. But neither the Constitution, the spirit of the law referred to, which denounces the officer of Government giving such contracts guilty of a high misdemeanor, and subject to the same penalty of three thousand dollars, nor any principle of official delicacy, or respect for the public sentiment of the nation, had been sufficiently operative upon the Secretary of the Treasury to prevent the appointment of a member of Congress to examine those offices during the past year. He said that it was not for him to say that in making the appointment, with the right to fix the compensation as he pleased, there had been a violation of the

JANUARY, 1822.

Military Appropriations.

H. OF R.

letter either of the Constitution or the statute he had mentioned; but it was his right to say, and he did it with freedom, that it was time to legislate further for the protection of the purity and independence of Congress, if there had not been a violation at least of their spirit. He said it might be considered as improper in him to bring the subject before Congress, as it was generally known that the appointment to which he alluded was in the State he represented; but, he observed, if he was right in his opinion, that in accepting the appointment, the State was reflected upon to its prejudice, delicate and painful as the task was, he considered it his duty, more than that of any other member, to bring it before the House. He knew improper motives were often assigned where they did not exist, but in this case he was willing his motives should be judged of by the character of the transaction. He was anxious to see those rights and interests of the people, which were confided to Congress by the Constitution, confided to a body of men free from all influence except that of meriting their confidence and approbation. With this brief explanation, he hoped the resolution would be adopted.

A few observations were made by Mr. HARDIN in favor of the resolution, when it was agreed to without opposition.

MILITARY APPROPRIATIONS.

The House, on motion of Mr. SMITH, of Maryland, then agreed to take into consideration the unfinished business of yesterday—(the bill for making a partial appropriation for the military service of 1822, &c.)

Mr. TRACY moved to reconsider the motion to determine the question of the appropriation for the Indian department by ayes and noes—he having voted in the affirmative on that question.

The SPEAKER decided the motion to be out of order, the number of twenty-eight (voting for the prior motion) not constituting a majority within the rule.

Mr. TRACY suggested that in the preceding Congress it had decided in a similar case that a majority for this purpose was a majority *pro hac vice*, which authorized a reconsideration.

The SPEAKER adhered to his decision; to which Mr. TRACY yielded.

Mr. RANDOLPH moved to recommit the bill to a Committee of the whole House, with a view to bring into maturer discussion and review the undefined appropriation that had been asked for by the Secretary of War. Unreasonable jealousy of the Executive Government, he observed, often led to the opposite extreme, and to a blind confidence in the governing power. From this jealousy, and that confidence, he professed himself to be equally free; and he believed that this House, also, was as free from unreasonable jealousy, as any representative body ought to be. In fact, jealousy in public life, was like that same green-eyed passion in the domestic circle, which poisoned the source of all social happiness. It was extraordinary, but yet apparent, that the case had occurred in which confidence had lost its true

character, and taken another which he would not name in this House. It was remarkable, as well on the other side of the Atlantic as on this, that a general suspicion had gone abroad that the Department which emphatically holds the purse-strings of the nation, was more remiss than any other in guarding the expenditures of its subordinate agents; and, if it should be generally and universally understood, that the body whose duty it is to guard the public treasury from wasteful expenditure, had abandoned their trust to a blind confidence in the dispensers of the public patronage, they must immediately and justly lose all the confidence of the community. He had heard yesterday, with astonishment, a proposition to surrender inquiry to a confidence in the integrity and ability of the officer who had made the requisition. When this House should be disposed to become a mere chamber, in which to register, not Presidential, but Departmental decrees, it would be unimportant whether the members of this House professed to represent individually thirty-five thousand freemen, or collectively the single borough of Old Sarum. This proceeding, he said, was to him unprecedented. He had been himself once personally acquainted with the proceedings of the Committee of Ways and Means, and he had himself brought in many bills to make partial appropriations—no, he said, not many of them; for the business had been in those days so conducted as not to leave much room for them; but he *had* brought in such bills, and supported them too, and he would again support such bills when they were necessary. He would give to the Government his confidence where confidence was necessary, and he would not give it to the Government, nor to any one, further than that, unless to his bosom friend. But there was a wide difference, Mr. R. said, between voting for an advance for the service of the current year, and voting for the same sum to cover a deficiency for the past year, under cover of an advance for the present year, &c., &c. He wished this bill to be recommitted, that the appropriation might be put on its proper footing, &c. Whilst I am up, said Mr. R., I will make one more remark: That, by the best estimate I am able to make, and that estimate has been fortified by what has fallen from others in the course of this debate, these Indians cost us, on the system of civilization and conciliation, rather more than if they were black, and our property, and working on our estates for our benefits. And this, Mr. R. suggested, without reciprocity; for though the master be bound for the whole expense of food and raiment for his servant, he is entitled to his services in return. The United States, Mr. R. said, he thought, ought not to be expected wholly to clothe and feed these people; they ought at least to do some little for themselves. One more remark he would make: It was astonishing, he said, what a fondness the people of the frontier had for having their throats cut. A gentleman had yesterday told the House, that this money for the Indian department was to be appropriated to prevent those people from having their throats cut. But what did the Representatives of the frontier

people in this House say? Why, that they had rather not have the revenue applied for their relief; they deprecate your protection, said Mr. R., and endeavor to stave off your defence of them.

The question on recommitment of this bill to a Committee of the Whole, was then put and carried; and then

On motion of Mr. SMITH, of Maryland, the House immediately resolved into a Committee of the Whole on said bill.

Mr. CHAMBERS moved to insert, after the words "for the current expenses of the Indian department," the words "including a deficit of \$70,000 of the appropriation for that object in the year 1821"—\$100,000.

Mr. SMITH remarked that the adoption of this amendment would save the Committee of Ways and Means a great deal of trouble. Mr. S. then recurred to the letter of the Secretary of War to show that the amount asked for, however convenient it might be to cover a deficit, was not solicited for that purpose. If the House should feel that they were sufficiently informed on the subject to justify an unsolicited appropriation he did not feel inclined to oppose it, especially as he believed it would be faithfully applied, if applied at all. Mr. S. then took a general view of the situation of our Indian affairs, in relation to the several subjects of annuities, trade, civilization, &c., and showed that the bill under consideration was not affected by them, its object being totally dissimilar and distinct. An important item in this disbursement appeared to be the rations that were furnished in making the Indian treaties, as alluded to yesterday by the gentleman from Ohio, (Mr. ROSS.) The Secretary of War had endeavored to control this expenditure. But his efforts had not hitherto been successful. During the administration of Mr. Jefferson those expenses had been kept within proper bounds. After his retirement the expenses of the Department were increased, from time to time, and it now required time and effort to eradicate the evil. It was always a work of more difficulty to retrench than to disburse. But there was every reason to believe that every effort was made to reduce the expenses of this Department, that was consistent with the proper maintenance of the national faith. He believed there was no objection in Congress, or in the Departments, and certainly not in the Committee of Ways and Means, to reduce the public expenditure so far as might be consistent with the public service.

Mr. FLOYD hoped the motion would prevail. The time was when the very name of Indian gave him great alarm. When he came here, he hoped he should be freed from that trepidation; but it haunted him still. The disbursement proposed was for the preservation of a contingent fund, out of which were to be paid Indian storekeepers, Indian agents, rations, and he knew not what else; but it was a reservoir for every thing that was not particularly provided for by a specific appropriation. It was, certainly, a very convenient method of disbursement; for, unlike our diplomatic relations with France and England, whose civiliza-

tion did not require these extraordinary contingent provisions, our Red brethren, who roamed through the forest in quest, not of their daily bread, (for they had none,) but of their daily meat, became the occasion of a greater draught upon the public treasury than all our diplomatic intercourse with the two most prominent Governments in the eastern world. When the abracadabra of the Secretary of War comes here, we are left as much at a loss after it is read at the table as before, whether we are called upon to make an appropriation or to supply a deficit. The last year \$170,000 were asked for this department, and only \$100,000 granted; and he hoped that such a firm course would be taken in regard to the subject, that, hereafter, when a limited appropriation is made, our agents shall know they are not at liberty to spend a dollar beyond the amount that is appropriated. If a subservient supply of deficits is granted from time to time, as the departments think proper to require, it was utterly in vain to talk of specific or limited appropriations. At all events, if they do expend more than they are authorized, it ought to be particularly shown how, and in what manner, that money was disbursed; and he believed, if such an examination were had, it would be found that many agents were employed of which Congress had no idea.

Mr. WOODSON remarked that he was not sufficiently advanced in life to be able to retrace by personal recollection the various occurrences that had taken place in relation to our Indian affairs. It was, however, a matter of deep concern to the people of the West. They knew full well, and bitter experience had taught them, during the last war, the relentless character of savage passion. Much had been done to remove the barbarity of the Indian character. It was, matter of regret, however, that it had been ineffectual; and, if all that had been done could not soften their flinty minds, it was necessary to use some caution, at least, as to further expenditures. In being called upon to appropriate, he felt that he could not be justified, unless the disbursement was clearly authorized by an existing law. It should, also, be shown to what particular purpose the expenditure was destined. He should not be satisfied without the explanation, nor without pretty clear proof that we were enabled to make it without violating our other engagements, and trenching upon other expenditures, that were of more imperious necessity. We had other important objects of expenditure, that would go far to exhaust our revenues. And was it the intention of gentlemen to lessen the Navy? Did they intend once more to raze the Army? His principal objection, however, was, that the object of the appropriation was neither explicit nor defined. It was now in contemplation to alter our system in relation to the Indian department. He hoped that purpose would prevail. He was willing to vote for \$70,000 to cover the past, and to extend it to \$100,000 if necessary. But he could not consent to a measure that should commit us to the continuance of the existing policy, which contributed neither to the honor nor to the interest of the Government.

JANUARY, 1822.

Military Appropriations.

H. OF R.

Mr. TRACY opposed the amendment. He thought, to use a homely and familiar phrase, it was jumping out of the frying-pan into the fire. He would not vote for an appropriation to supply an excess of which he knew nothing. It was already apparent, by the statement of the chairman of the Committee of Ways and Means, this morning, that, instead of \$100,000 as the sum granted for this purpose the last year, the sum of \$130,000 had been actually applied to that department. A mistake of \$30,000 had evidently occurred. We were, therefore, in the dark, and before we admitted the recommendations of the Secretary of War to have a binding force upon us, it would be well to have further light on this subject. One hundred thousand dollars was appropriated the last year; add to that the sum of \$30,000 embraced in the mistake now disclosed, and add these sums to \$70,000 the alleged deficiency of last year, and it makes an aggregate of \$200,000. Mr. T. would yield all the confidence to a respectable department which its official character demanded, but he should deem it his duty to hesitate before he voted for the appropriation of moneys concerning which even the Department itself either did not possess, or did not communicate, any clear and definite knowledge. He thought the bill, as reported by the Committee of Ways and Means, was far preferable to the amendment proposed by the gentleman from Ohio, (Mr. CHAMBERS.) In the former case, the department would be responsible for its future disbursement; but if it was applied to a previous deficit, it was covered forever from the public eye—it was expended, lost, and gone forever. He would not say that the amount asked for was not necessary; but he would say, that, in his judgment, there was not that clear and proper evidence before the House that could justify them in making the appropriation.

Mr. RANDOLPH, in rising to speak again on this question, said that, from what had fallen from the gentleman from New York, he now entertained great doubts of the propriety of going so far as the motion which he had himself submitted to the House. But he had done it on the principle that, as \$132,000 had last year been voted to supply the deficiency of the preceding year, and it appeared there was a deficiency of \$70,000 for the last year, it was almost a matter of course to vote it, holding the head of a Department by the very slender thread of the Constitutional responsibility, to account for it hereafter—for, to say the truth, he had not entertained the smallest hope, no, not the slightest idea, that, after the score was once run up, there would be found firmness enough in this House to resist the claim. The fact now appeared to be, that the debt is contracted, and yet the parties concerned were not prepared to show how it had been done, but asked, as a matter of confidence from the House, that so much should be given to clear up the old score, and \$30,000 to begin anew. Now, Mr. R. said, with regard to confidence in the Departments, he would put in the head of each of them as much confidence officially, as he would in the worthy member from New York, or the member from Kentucky, or any other mem-

ber of this House. He did not conceive there was any magic in kissing of hands, or that taking a man from this House and putting him at the head of one of the Departments gave him any more title to confidence than he possessed before. I will, said Mr. R., go a little step further. I will give to the heads of Departments full as much of my confidence as they give of theirs to one another. Mr. R. went on to say, that he had never known, until he had so understood the Chairman of the Committee of Ways and Means this morning, that that committee had at the last session felt any scruple as to the appropriations for the Indian department. With that view of the subject, he looked at the transcending the appropriations of the last year as a very serious matter. If the officers of the Government set your limitations at defiance, said he, we have indeed an Augean stable to cleanse, &c. [Mr. R. made some other remarks on this head, the point of which escaped the reporter.] He went on to allude to the subject of the extinction of the title of the Indians to the lands within the limits of Georgia, the expenses of which, it had been suggested, were included within the expenses of the Indian department, denying that any material part of the title to those lands had yet been extinguished, &c. Mr. R. concluded his remarks by expressing his opinion that the present course would be to appropriate \$30,000 in part for the expenses of the present year, leaving the decision on the appropriation for the remaining \$70,000, until the dark cloud which appeared to him to rest on that requisition should be a little cleared up.

Mr. ROSS entered into a general examination of the various subjects relating to the Indian department, and passed in review the various sources of expenditure that were incident to it. Among other remarks showing the improvident measures that had been adopted in relation to the subject, he adverted particularly to the unnecessary expenses incurred by rations to the hungry Indians, and equally hungry and curious whites, who attended the making of Indian treaties, and to the implements of agriculture—the harrows and ploughs that were made in the District of Columbia and transported to the Indian settlements beyond the western mountains. He thought the whole subject required a reform. Experience had shown that the Indian agents who had gone out poor had come back rich, and the most proper remedy that the people could apply to cure these evils was to withhold supplies through the medium of their Representatives.

Mr. SMITH explained at considerable length.

Mr. CHAMBERS entertained too much respect both for the Committee and himself to detain them long on the subject. It had appeared to him that there were \$70,000 in arrear for the last year, which it would be necessary to supply by some appropriation. Presuming that the debt had been fairly incurred, he was willing to assume it. He presumed no member of that Committee was willing that the Secretary of War should remain seventy thousand dollars *minus* for contracts entered into in behalf of the Government. He

H. OF R.

Proceedings.

JANUARY, 1822.

also thought that the sum of \$20,000 might be necessary to meet contingencies that should accrue before the renovated system which he hoped would be adopted could go into operation. He did not wish to embarrass any branch or department of the Government, but he could not feel himself justified in voting money from the public treasury without specifying for what purpose it was to be applied.

Mr. LOWNDES then addressed the Committee on the question; but the general movement in the House, and the unfortunate situation of the reporter, prevented him from hearing any part of Mr. L.'s observations. He could only ascertain that Mr. L. supported the original motion of the Chairman of the Committee of Ways and Means, on the ground that the anticipation was authorized, and that specific objections might be more properly urged when the general appropriation bill should be brought forward.

Mr. RANDOLPH replied, but the reporter is disqualified from giving his observations, from not being able to hear the remarks to which they related.

On motion of Mr. REID, who entered at some length upon the subject of making appropriations without being possessed of the grounds on which they were asked, the Committee rose, reported progress, and obtained leave to sit again.

MONDAY, January 7.

The bill from the Senate for the relief of John Holmes, and the bill from the Senate for the relief of the legal representatives of M. and I. Monsanto, deceased, were twice read, and committed.

A Message was received from the President of the United States transmitting the annual report of the Director of the Mint; which was ordered to lie on the table.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report, accompanied by a bill for the relief of Alexander Roddy; which was twice read and committed.

Mr. GILMER, from the committee appointed to consider the subject, reported joint resolutions, making appropriations for carrying into effect the articles of agreement and cession entered into between the United States and the State of Georgia, on the 24th of April, 1812, and for other purposes; which were twice read and referred to a Committee of the Whole.

Mr. CAMPBELL, of Ohio, from the committee appointed on the 20th ultimo, reported a bill for the apportionment of Representatives among the several States according to the fourth census; which was read twice and committed to a Committee of the Whole. The bill is as follows:

Be it enacted, &c., That, from and after the third day of March, one thousand eight hundred and twenty-three, the House of Representatives shall be composed of members elected agreeably to a ratio of one Representative for every forty thousand persons in each State, computed according to the rule prescribed by the Constitution of the United States; that is to say, within the State of Maine seven; within the State of New Hampshire six; within the State of Massachu-

setts thirteen; within the State of Rhode Island two; within the State of Connecticut six; within the State of Vermont five; within the State of New York thirty-four; within the State of New Jersey six; within the State of Pennsylvania twenty-six; within the State of Delaware one; within the State of Maryland nine; within the State of Virginia twenty-two; within the State of North Carolina thirteen; within the State of South Carolina nine; within the State of Georgia seven; within the State of Alabama two; within the State of Mississippi one; within the State of Louisiana three; within the State of Tennessee nine; within the State of Kentucky twelve; within the State of Ohio fourteen; within the State of Indiana three; within the State of Illinois one, and within the State of Missouri one.

Mr. EDWARDS, of Connecticut, said, that the Legislature of Connecticut, at its last session, passed a resolution requesting the Representatives of that State in Congress to use their influence to procure a reduction of the public expenditures, and particularly a reduction of the compensation of Members of Congress, to what it formerly was. In compliance with this request, he begged leave to offer this resolution:

Resolved, That a committee be appointed to inquire into the expediency of reducing the compensation allowed to Members of Congress to six dollars per day, and making a proportional reduction in their compensation for travelling to and from the Seat of Government, and, also, reducing the compensation of all the officers of Government to what it was previous to the year 1809.

The question on agreeing to this resolution was taken without debate, and the vote was as follows: For the resolution 56, against it 87.

So the resolution was rejected.

Mr. COCKE submitted the following resolution:

Resolved, That the President of the United States be requested to cause to be laid before this House a statement showing the amount expended for the current expenses of the ordnance department during the years 1817, 1818, 1819, and 1820, and as much as can be shown of said expenditures for the year 1821; with the particular items for which the money was expended, the place where, and the persons to whom paid; what quantity of timber has been procured for gun carriages and caissons, its cost annually, and where deposited; the quantity of ordnance of every kind that has been procured during those years, or paid for; the sums expended in the purchase of sites for arsenals since the peace, the cost of buildings erected thereon; and whether all those arsenals are necessary for the service of the United States.

The resolution was ordered to lie on the table for one day.

Mr. VANCE submitted the following resolution, to wit:

Resolved, That the Secretary of War be directed to communicate to this House the number of persons employed in the Indian department, as superintendents, factors, agents, sub-agents, interpreters, missionaries, teachers, mechanics, agriculturists, explorers, surveyors, messengers, or expressmen, with their names; what number of said persons hold appointments from the Government; what number from Governors of Territories, superintendents, and agents, with the pay

JANUARY, 1822.

Cumberland Road—Prohibitory Duties.

H. OF R.

and emoluments of each; *also*, the amount of money put into the hands of each Governor, superintendent, and agent, since the 1st of January, 1820, to defray the expenses of that department, and how it has been applied.

The resolution was ordered to lie on the table one day.

Mr. JACKSON submitted the following resolution, viz:

Resolved, That the bill for the promotion of internal improvements in the United States, reported by the Committee of Revisal and Unfinished Business, be referred to the Committee on Roads and Canals.

The said resolution being read, the question was taken, Will the House now proceed to consider the same? and determined in the negative.

The resolution from the Senate, for the appointment of a joint committee to revise the rules and orders for the regulation of business between the two Houses, was read, and agreed to; and Messrs. TAYLOR, NELSON of Virginia, and TOD, were appointed of the committee on the part of the House.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act authorizing the payment of a sum of money to Thomas Shields," in which bill they ask the concurrence of the House.

CUMBERLAND ROAD.

Mr. STEWART submitted for consideration the following resolution:

Resolved, That the Committee of Ways and Means be instructed to report a bill applying the unexpended balance of the moneys appropriated by the act of the 3d of March, 1819, for completing the Cumberland road, to the purpose of repairing the same.

Mr. RANDOLPH suggested that, according to the usage of the Treasury, the appropriation referred to in the resolution had ceased and determined, having been carried to the credit of the surplus fund.

Mr. LATHROP said that, if the resolution had proposed an inquiry into the *expediency* of the measure, he did not know that he should have any objection to it. But, without more information than he now possessed, he should feel himself obliged to vote against it in its present imperative shape.

On request of the mover, the resolve was then ordered to lie on the table.

RATES OF DUTIES.

Mr. BALDWIN submitted the following resolution, viz:

Resolved, That it is expedient to provide by law, that, from and after the thirtieth day of June next, the same rates of duties, which are by the existing laws now laid on goods, wares, and merchandise, composed of any specified material, or of which any specified article is the material of chief value, shall be laid on all goods, wares, and merchandise, whereof any such specified article shall be a component material.

That, to the existing rate of duties upon goods, wares, and merchandise, (glass excepted,) there shall be added the amount of such bounty or bounties, as, on

the exportation thereof, may be given, paid, or allowed, in the place or country whence imported, produced, or manufactured, or in any place, or country, in which any bounty, or premium, or — in the nature thereof, may be given, paid, or allowed, on the exportation of similar articles, which shall be ascertained and calculated in such manner, and under such rules and regulations, as the Secretary of the Treasury shall, from time to time, prescribe.

That all and singular the provisions of the forty-first section of the act, entitled "An act to provide more effectually for the collection of the duties imposed by law on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels, approved the 4th of August, seventeen hundred and ninety," be, and the same are hereby, revived and continued in force, as if the same was herein specially enacted, reducing the custom-house credits to the times limited by the law of one thousand seven hundred and ninety.

That there shall be levied and paid upon the following articles, imported into the United States, in ships or vessels of the United States, the several duties hereinafter mentioned, over and above the duties now payable by law, viz:

On iron, in bars or bolts, per hundred weight, fifty cents.

On hemp, per hundred weight, one dollar.

On lead, and all manufactures thereof, per pound, two cents.

On glass of all kinds, six cents per pound.

On all articles paying a duty of seven and a half per cent., and twenty per cent. ad valorem, and on all articles not free, and not subject to any other rate of duty, (raw silk excepted,) five per centum ad valorem.

On all manufactures of silk, or of which silk is a component material, (raw silks excepted,) fifteen per centum ad valorem.

On linen, and all articles of which flax is a component material, ten per centum ad valorem.

That the duties now in force upon the articles hereinafter enumerated and described, at their importation into the United States, shall cease; and that, in lieu thereof, there shall thenceforth be laid, levied, and collected, upon the said articles, at their importation, the several and respective rates of duties following, that is to say:

On slates and tiles for building, not exceeding twelve inches square, two dollars per thousand; over twelve inches square and not exceeding fourteen inches square, three dollars per thousand; over fourteen and not exceeding sixteen inches square, four dollars per thousand; over sixteen and not exceeding eighteen inches square, five dollars per thousand; over eighteen and not exceeding twenty-four inches square, six dollars per thousand.

On bricks, three dollars per thousand.

On all royal, superroyal, imperial, elephant, medium, demi, crown, folio, quarto-post, cap, and post paper, suitable for writing or blank books, and all drawing and copperplate paper, twenty cents per pound.

On all paper suitable for staining, and for printing, twelve cents per pound.

On all other paper, two cents per pound.

On screws of iron, commonly called wood screws, not exceeding one inch in length, eight cents per gross; over one inch and not exceeding two inches in

H. OF R.

Prohibitory Duties.

JANUARY, 1822.

length, fourteen cents per gross; over two inches in length, twenty cents per gross.

On linseed oil, twenty-five cents per gallon.

Resolved, That the Committee on Manufactures be instructed to report a bill pursuant to the foregoing resolution.

The resolution was committed to a Committee of the Whole.

PROHIBITORY DUTIES, &c.

Mr. RICH, of Vermont, rose to submit a resolution for consideration. In introducing it to the attention of the House, he made remarks to the following effect:

It will be recollected by those who were here at the last session, that I then submitted a motion, for an inquiry into the expediency of adopting a prospective prohibition upon the importation of sundry enumerated articles, which were believed to come most in competition with the products of domestic industry. That after it had reposed some days upon the table, I gave notice that, owing to the extraordinary pressure of other indispensable business, I should not, during that session, ask for the further consideration of the subject. Assuring the House however, that, should it be made my duty to be here at this session, and my sentiments should not, in the meantime, have undergone a material change, the proposition would certainly be renewed. Having found no cause for a change of the opinions formerly entertained upon this subject, but, on the contrary, become more confirmed in the belief of their correctness, I should have deemed it a fortunate circumstance if the late report of the Committee of Manufactures had been such as would have justified me in omitting to renew the proposition. But, I have learned with regret that a majority of that committee, to which was referred "so much of the Message of the President as relates to manufactures and the promotion of national industry," have "resolved that it is inexpedient at this time to legislate on that subject." I hope, however, that a majority of the House will agree to amend the resolution of the committee, by expunging the first syllable from the word "inexpedient." Leaving that subject, at least for the present, I will proceed to fulfil, not exactly in form, but substantially, the engagement to which I have alluded. It will be ascertained from the resolution which I am about to offer, that, instead of formal prospective prohibition upon imports, as was suggested at the last session, I now propose to instruct the Committee of Ways and Means to prepare and report a bill providing for a moderate annual increase of duties for a term of years upon the importation of such commodities as can with the protection common in other countries, and with a convenient application of the means of our citizens, be produced in abundance from domestic materials: and an excise upon similar domestic commodities, to commence at a convenient period, and be made progressive annually till it shall have reached an amount deemed proper for a permanent duty. That an increased supply of revenue is indispensable appears on all hands to have been admitted; and but little doubt, I apprehend, exists, that at no distant

period, the process by which it is derived must, at least, be partially changed. Hence, I have endeavored so to frame the proposition that, by giving effect to it, an immediate and future supply of revenue for all ordinary purposes will be rendered certain, "and in a manner to aid our manufactures." To the extent to which the proposed measures shall be carried, the prosperity of the revenue will be the effect of the prosperity of manufacturing industry, directly the reverse of which is known to result from the present system.

It has been very justly said by the President, that "it cannot be doubted that the more complete 'our internal resources, and the less dependent we 'are on foreign Powers, for every national, as well 'as domestic purpose, the greater and more stable 'will be the public felicity. By an increase of domestic manufactures, will the demand for rude materials at home be increased; and thus will the dependence of the several points of the Union on 'each other, and the strength of the Union itself, be 'proportionably augmented." And again: "If domestic manufactures shall be raised by duties on 'the foreign, the fund necessary for public purposes should be supplied by duties on the latter." And, although he has said that "this process," which is admitted to be "very desirable, inevitable under existing duties," he has no where, to my understanding, intimated a belief that any inconvenience would be felt, should measures be immediately adopted to accelerate the process. But, on the contrary, he says, "It is thought that the revenue may receive an augmentation from existing sources, and in a manner to aid our manufactures." An unqualified belief is expressed in another part of the Message, that such is the skill of the citizens, "in the mechanic arts, and in every improvement calculated to lessen the demand for, and the price of labor;" and such the facilities presented by the "vast amount of raw materials," "and aliment of every kind," always attainable on easy terms; "that, under the protection given by existing laws, we shall become at no distant period a manufacturing country, on an extensive scale." And in the parts from which I first quoted, it is admitted, in the most explicit terms, that highly important national advantages would be derived from an increase of manufactures; that the revenue may receive an immediate augmentation in a manner to aid them, and that any deficiency, resulting eventually from such aid, should be supplied by duties on the domestic fabrics. These, sir, are the great points at which I aim by the resolution which I hold in my hand, and I shall esteem it fortunate for the country if we shall be able to reach them, through a process which will relieve us from the inconvenience of a sudden change, or a necessity for further loans.

The language employed on this subject by the Secretary of the Treasury, is equally explicit with that quoted from the Message. He says: "A correction of existing duties, with a view to 'an increase of the public revenue, could hardly 'fail to effect that object, to the extent of nearly 'one million of dollars annually. It is highly 'probable, however, that, an increase of duties on

JANUARY, 1822.

Prohibitory Duties.

H. OF R.

'some of those articles, might eventually cause a reduction in the revenue; but this could only take place where similar articles are manufactured in the country. In that event, manufactures will have been fostered, and the general ability of the community, to contribute to the public exigencies, will have been proportionably increased.' Yes, sir, "the general ability of the community" increased, in the same proportion that domestic manufactures are fostered.

And where, permit me to ask, can language be found which is more decisive? And if, in any manner just, whence the alarm lest the act of fostering manufactures should operate as "a tax upon the many, for the benefit of the few." Sir, if we shall believe, as I religiously do, that the sentiments which I have quoted from the President and Secretary are correct, is it not our duty, and one of an imposing character, to employ our best efforts to accelerate "this process," which, in the language of the President, "is very desirable;" and, in that of the Secretary, will "increase the general ability of the community?" Or, is it indeed true, that because this desirable process is believed to be "inevitable, under existing duties," it is therefore sufficient for us, that we "leave things to themselves," and look with cold indifference on the sufferings of the country, while a process of a very different character shall withdraw from it the whole of its transferable means, even to the last dollar of its metallic currency and public stocks, to pay the wages, house rent, subsistence, tithes, poor rates, and other taxes of foreign laborers, and for the use of their capital and machinery, and even the streams of water, by which the vast revolutions of the latter are performed? I am not unaware that an opinion is indicated in the Message, though rather remotely, that the period cannot be very distant when our manufactures will have reached such a state of maturity, that, with no other protection than that afforded by existing laws, a revenue may be derived from that source. But, sir, I must be permitted to inquire, whether any prudent citizen would, till every other source of employment had been extinguished, invest his capital in manufacturing establishments, or seek to acquire a knowledge in their details, with no better prospects for the future, than that the moment the foreign manufacturer shall have retired from the market, the Government will invite his return by imposing a tax upon the domestic fabrics? When the measures of the Government shall have been such as will afford a reasonable assurance, that domestic industry shall not be paralyzed by a return of the foreign competitor once withdrawn; such as will invite the capitalist and skilful artisan to employ their unengaged means in manufacturing; then, and not till then, will there be a wholesome domestic competition in the market; and not till then can that source be made productive of revenue.

Sir, while I consider the increasing demand for exchange, already so high as to urge the exportation of our metallic currency and public stocks, and the almost total absence of any foreign demand for the products of our extensive grain dis-

tricts—none, even in prospect, except in the possible contingency of a foreign war, or the failure of a foreign crop—a conviction is irresistibly forced upon me that the period cannot be distant when the public credit must be sacrificed, or a resort had to direct taxes to a large amount; and that too when the means of payment shall have been greatly exhausted; unless, in the mean time, we shall have adopted such measures as will enable the Government to derive a revenue from the consumption of domestic instead of foreign articles—for the people, particularly of the North, the East, and the West, cannot, and will not, afford an adequate supply to the public coffers, through a process, which, for every dollar that shall reach the Treasury, will take four from the country, in the choice fruits of its industry, to bestow on foreign laborers, who refuse to receive from us, in exchange for their products, even the bread they eat, while engaged in their fabrication.

I wish not to be understood as objecting to direct taxation, provided it be made the part of a system, the operation of which shall tend to promote the industry of the country, and equalize the public burdens. My objections are, against adhering to a policy, while the reasons which might have rendered its adoption proper have ceased to operate; a policy, too, which, in my best judgment, will create a necessity for direct taxes, by the same process that will deprive us of the means of payment. It has already been remarked, that, to effect the objects I have in view, I propose a small annual increase of duties for a term of years, upon sundry articles, the product of foreign labor; and an excise upon similar domestic articles—the excise to commence at a convenient period, and be made progressive annually till it shall have reached an amount deemed proper for a permanent duty.

In the hope that the objects of the resolution will be the better understood by the House, I will suppose, for example, that the proposed measures are to be applied to a given article. Upon the importation of that article, I would charge an immediate additional duty, say one-eighth of the increased amount to which I intended it should eventually reach; and would add one-eighth for each of the succeeding seven years. For a term, say three years, the increased duty would prevent a reduction of the gross amount of revenue from the article; but, in the belief that the increase of the domestic article would subsequently reduce the receipts from the foreign, I would provide for that reduction by an excise on the former, to commence with the fourth year, and at one-fourth the amount intended for a permanent duty; and, for each of the succeeding three years, would add another fourth. By this process, the duty, both on the foreign and domestic article, will reach their maximum at the end of seven years; while the pressure created by the excise upon the domestic article will be so graduated, that its influence upon the price to the consumer will be overbalanced by the increasing domestic competition; and the duties will be gradually raised on imports, that no inducements will be presented for large

H. OF R.

Prohibitory Duties.

JANUARY, 1822.

importations with a view to a monopoly. But unless it shall be determined to raise the duties on imports to an amount which will nearly exclude the foreign article, notwithstanding the excise on the domestic, the ratio of increase upon the excise should be diminished, and the period extended for reaching its maximum. If, sir, I shall have made myself understood by the example adduced, it will have been perceived that I aim at a process by which the revenue shall gradually be made derivable from the domestic article, instead of the foreign, and in a manner that will secure a constant supply, and be convenient both for the Government and the citizens. Should the general features of the plan be approved, it will remain with Congress to determine whether seven, or a greater or less number of years, shall be taken to complete the operation. In my judgment, however, the more limited the term, the greater will be the benefit to the country; provided it shall be sufficiently extended to bring into the market, without any forced operation, a fair domestic competition; for which, it is highly probable, a more distant period would be required for some articles, than would be necessary for others. And I feel no hesitation in pronouncing an opinion, that, as it is intended to embrace such articles only as can be produced to any extent from domestic material, (otherwise of little or no comparative value,) and will hence reach the consumer at reduced prices, the impost duty should be so raised as nearly to exclude the foreign article; for, otherwise, all our hopes for the real prosperity of manufactures, or that a productive revenue can thence be derived, will, prove fallacious.

It certainly ought not to be expected that those who believe the success of manufactures essential—nay, indispensable, to that of the other branches of industry—will ever assent to an excise, under such circumstances as will, in their judgment, invite the foreign competitor into the market. Nor should the belief be for a moment entertained that another loan to meet the ordinary expenses of Government will at any time be authorized, unless certain means are provided for its redemption, and to supply any subsequent deficiencies in the revenue. And I take this occasion to say, once for all, that, so far as may depend upon myself, and except upon the conditions just stated, another loan will never be obtained, be the consequences what they may.

Many who are otherwise favorable to an increase of manufactures have been somewhat alarmed, lest a diminution of imports should create a necessity for direct taxes. Such have believed (and hence their fears) that domestic articles could not bear a productive tax, till the foreign were nearly excluded from the market; and have very naturally supposed that, while the measures were in progress which would eventually exclude them, no alternative would be presented, but to supply an increasing deficiency in the revenue, either by loans or direct taxes. Should it be found convenient to overcome this objection, in the manner proposed, much will have been done for the accomplishment of the objects I have in view; but, if otherwise,

the proposition will, I admit, have lost a share of its claims upon the favor of the House. Individually, as I have before remarked, I feel no objection to a well-adjusted system of revenue, of which direct taxes shall be made a part; but the citizens have been so long accustomed to indirect taxation, that some time must yet elapse before (if ever) they will, in that particular, be reconciled to a change. And to me it would seem to be indispensable, that, before a direct tax shall be spread over the country, measures shall have been adopted to “increase the general ability of the community to contribute to the public exigencies”—measures that will have retained within the country something of the means of payment.

If, upon due consideration, the plan which I have proposed shall be deemed practicable, and worthy of adoption by Congress, all the measures necessary to give to it full effect can, as they ought to, be made so far prospective as to be free from the multiplied inconveniences which must ever result from a sudden change. All the great interests of the country will then have been duly notified; and thus, whilst an important change in its policy will have been almost imperceptibly effected, they will as imperceptibly have accommodated themselves to the change. The foreign fabrics will have retired silently from the market, and in the same manner will the domestic have supplied their place. The means of the country, now sinking through the most unfavorable operations of exchange—the introduction of foreign goods, to the prejudice of home industry—will have found other employments, free from perplexing uncertainties, such as will augment the resources of the country by invigorating its industry. A constant exchange of products between those differently employed will have been effected to the mutual advantage of each. And then the period will have been reached, when in truth it can be said, that, “by an increase of domestic manufactures,” “the demand for rude materials at home” has been “increased;” and that “the strength of the Union itself” has been “augmented” by an augmentation of “the dependence of the several parts on each other.” Then will the “increased” “ability of the community to contribute to the public exigencies” have been fully demonstrated, and the public revenue, having been made derivable from the consumption of domestic instead of foreign fabrics, will continue steady and productive, whether in peace or war; and, particularly so, from having ceased its dependence on the ability of the citizens to consume the products of foreign labor, which neither adds to the wealth of the country, nor contributes to its defence; an ability, too, which depends more upon the crimes, the follies, and misfortunes, of other countries, and even upon the state of the weather in some, than upon the sagacity, skill, and enterprise, of the American citizens. And, finally, then will the supplies, at all times indispensable, be placed beyond the reach of foreign influence, or the contingencies incident to a precarious foreign commerce; and, thus circumstanced, will be sure to reach the consumer at the lowest possible price.

JANUARY, 1822.

Military Appropriations.

H. OF R.

Sir, satisfied as I am, that I should not only exhaust the patience of the House, but transgress its rules, were I at this stage of the proceeding to do more than present the general views which I have of the subject, I will only remark, in conclusion, that individually I should prefer that, as was suggested at the last session, the proposed measures be accompanied with an ultimate, formal prohibition upon imports; principally on account of the increased facilities for preventing an illicit trade; as, in the latter case, the simple fact of prohibited goods having been found in the country, would incur a forfeiture; whereas, in the other, such as shall have passed the custom-house must be taken to have been lawfully imported, and the duties paid, until the contrary be shown. It is therefore more from the respect which I feel to the opinions of others, than in accordance with my own judgment as to what is abstractedly best, that in this particular I now submit the proposition in a modified form.

If it shall eventually be found that a majority will object to the proposed measures, but will nevertheless, in a form which to them will be more acceptable, adopt such as will secure a present and future supply of revenue, and in a manner that will aid the industry of the country, I assure that majority, when ascertained, of my zealous co-operation. With this assurance, and with the best of feelings for those who may differ from me in opinion, having no other desire than a faithful discharge of public duties, I will abstain from occupying more of your time, and send the resolution to the Chair; but not with a wish that it should be considered till some future day, of which due notice shall be given.

Mr. RICH then moved the following resolution:

Resolved, That the Committee of Ways and Means be instructed to prepare and report a bill providing for a moderate annual increase of duties, for a term of years, upon the importation of such commodities as can, with the protection common in other countries, and a convenient application of the means of the citizens of the United States, be produced in abundance from domestic materials, and for a moderate excise upon similar domestic commodities; to commence at a convenient period, and be made annually progressive, till it shall have reached an amount deemed proper for a permanent excise duty.

The resolution was ordered to lie on the table.

MILITARY APPROPRIATIONS.

On motion of Mr. SMITH, of Maryland, the House then resolved itself into a Committee of the Whole on the bill for making partial appropriations for the military service of the year 1822, and to supply deficiencies of the appropriations for Revolutionary pensioners for the year 1821.

The question recurred upon the motion of Mr. CHAMBERS, of Ohio, (made on Friday last,) to fill the blank with the sum of \$100,000, in such manner that \$70,000 thereof should apply to the deficit of the past, and \$30,000 thereof to the expenditures of the current year, on account of the Indian department.

Mr. JONES, of Tennessee, observed, that he was

sorry to be placed in a situation, as a member of the Committee of Ways and Means, in which he felt it a duty to withhold a vote for an appropriation which that committee had thought proper to propose. He was disposed to vote for such an appropriation as might be adequate to meet the contingencies of that part of the current year which should precede the annual grant under the general appropriation bill; but he could not say that \$100,000 was not more than was necessary for that purpose, and more than was contemplated by the call of the Secretary of War for that purpose. Indeed, no specific call for arrearages had been made. Whatever light the House had received on that subject, was rather impliedly gathered than distinctly communicated; it was an inference, not as disclosed. A requisition had been made for the Quartermaster's department, and it was agreed to; a similar proposition was made regarding the pay of the officers and soldiers of the Military Establishment for current expenses, and it had been met and acquiesced in by a majority of this House. On these questions no doubt had arisen of the expediency of the disbursement; but when a demand was made for \$100,000 for the Indian department, inquiry was naturally excited as to the cause, and extent, and object of the expenditure. Information was, therefore, sought by the Committee of Ways and Means; but, before an answer was received, a second communication was made, relative to the essential deficiency of the appropriation that had been made for the Revolutionary pensioners. The bill was then on its passage; but the Committee of Ways and Means, in pursuance of what they thought their duty, arrested its further progress, obtained its recommitment for the purpose of revisal and further provision, and reported the same again with that necessary addition relating to the Revolutionary pensioners. Nor was it until after this period that the Committee of Ways and Means learned for the first time, and in reply to their first letter, that there was a deficiency of \$70,000 of the last year's appropriation for the Indian department. It had been asked, why we would not make the necessary appropriation to supply this deficit, when there was no doubt it was incurred in the public service? He would reply, that, however just it might be, yet, as it was the duty of the representatives of the people to demand, so it was the proper business of the Secretary of War to furnish the proper evidences of the expediency and justice of the requisition. Remarks had been made, as if opposition to the full amount asked for originated in a disposition to embarrass the War Department, or in a want of confidence in its integrity. He did not entertain the one, nor did he admit a want of the other. He would carry the checks of ordinary prudence from private into public life. However great our confidence may be in the integrity and honor of a merchant, yet who would hesitate to ask of him an account current of the state of his mercantile dealings? Not on the ground that he would be unjust, unfair, or dishonest, but that mistakes might be corrected—inadvertencies, and the various contingencies of human frailty, examined, provided for, and cor-

H. OF R.

Military Appropriations.

JANUARY, 1822.

rected. In the present case the expenditure had been merely stated to exist, and that it was greater, by \$70,000, than the appropriation provided for to meet it. But in what way that surplus had been expended—for what purpose or object, had been altogether unexplained. He was not disposed to doubt the correctness of the expenditure; but he would say, as a general rule, and a rule which, in his opinion, ought never to be departed from, that where a definite appropriation was made for a clear, definite, and limited object, if the disbursing agent went beyond the amount of the appropriation, the deficiency ought never to be supplied, but the agent should be held upon his personal responsibility. If, on the other hand, an appropriation be made, limited in its extent, but applied to a purpose somewhat undefined in its nature, and in a degree necessarily bounded by the discretion of the agent, it might be proper to supply the deficit of the first appropriation by a subsequent act; but never should this be done until the disbursing agent had, by an account current, and clear exhibition and statement of expenditures, proved that the subsequent appropriation was fairly called for by the demand of justice, on the one hand, and the dictates of national policy on the other. Under these impressions, and satisfied as he was with the rule he had prescribed to himself as the measure of his conduct, he could not consent to vote for the proposition before the Committee. He could not say that \$70,000 ought to be granted by the House to supply deficiencies which had been left, not only unexplained, but even the existence of which had not been officially declared. He should not consent to make any retrospective grants until they were called for; and in relation to those which were in prospect, he thought it the duty of the representatives of the people to withhold them, except so far as they might be necessary to meet current expenditures between the appropriations of the last year and the passage of the appropriation bill for the present. An uniform rule of action was highly desirable, and whatever degree of confidence the present Secretary of War was entitled to, yet other secretaries might arise that were less deserving of the confidence of the people. He thought a statement of the items was necessary. It was necessary to satisfy the people, and to form a ground-work on which they, as the representatives of the people, could justify themselves to their constituents in making the appropriation. He was, therefore, disposed to limit the present appropriation to \$30,000. We might then wait a week or two. In the intermediate space, should the items be made out, and the expenditure shown to be legal and proper, a second bill for partial appropriation might be offered; for, however unusual such a course might be, he did not think the Committee of Ways and Means would be deterred by any false delicacy from proposing it, if they really thought the public interest required it. He would, therefore, suggest to the gentleman from Ohio, (Mr. CHAMBERS,) who had moved the proposition, that if he would withdraw the motion before the Committee, he, Mr. J., would move that the blank be filled with the sum of \$30,000, to cover

the future expenditure only, instead of the past deficit.

Mr. CHAMBERS remarked that he felt no disposition whatever to embarrass the operations of the Government. He wished things to be called by their proper names, but was not tenacious of the form, if the object was kept in view. He had made the motion on the belief, founded upon what he thought a pretty clear expression of the sentiments of the House, that the sum of one hundred thousand dollars was to be appropriated to the Indian department, in obedience to the call of the Secretary at War. Yet, if it was thought that it would facilitate the progress of the business, he would cheerfully consent to withdraw the motion; which was accordingly done.

Mr. F. JONES thereupon moved to fill the blank with the sum of thirty thousand dollars.

Mr. FARRELLY spoke at length in opposition to the motion of the gentleman from Tennessee, (Mr. JONES.) He replied to the various objections that had been made, and adverted to the letters of the Secretary of War, which, in his opinion, contained all the information that was necessary to justify either to their own consciences, or to the people, the whole amount of appropriations that they had been called upon to make. He was opposed to the granting by anticipation, and leaving debts unpaid that were incurred upon the pledge of the national faith. He adverted to the documents already in possession of the House, and contended that, if any confidence was to be placed in the allegation of the Secretary of War, the money had been fairly laid out. It had been expended in carrying into effect existing treaties, which it was not in the power of the Secretary of War to annul or impair. He was in this respect an executive officer. His duties were executory. He was bound to see that the Indian treaties were complied with, that the faith of the Government was redeemed, while at the same time it was proposed to withhold the very means by which that redemption could be effected. He knew of no evidence that could be given why confidence should not be reposed in that valuable public officer. Although the money had not been paid out, yet the debt was incurred, and he thought that Congress were bound to make the appropriation. It was a duty we owed not only to the principle of sacred and immutable justice, but to the repose and tranquillity of our frontier settlements. How could the Secretary of War go on to make new arrangements and new contracts, so long as the old ones were not complied with by the Government? In carrying the laws relating to the Indian department into effect, it was impossible to foresee the incidental expenses that must necessarily accrue—the expenses of transportation of the goods provided for by the respective treaties; the pay of interpreters, of agents, of sub-agents, &c., and all the expenses necessarily devolving upon an intercourse so unfrequent and remote. It was evident that a system of economy has been introduced by the present Secretary, and that to no unimportant extent; for, although our relations with the Indians have extended, and our intercourse with

JANUARY, 1822.

Military Appropriations.

H. OF R.

them increased within the last few years to an extent not before thought of—although the nations, once our frontier depredators, are embosomed among us—and the Council Bluffs and Yellow Stone, only known till lately as a fairy land, or the exterior boundary of geographical speculation, are now brought under our special cognizance, and within the circuit of our immediate communication; yet we find that, by the introduction of a system of wholesome retrenchment, our expenditures in relation to the Indian department have rather diminished than increased within the last few years. Intercourse, unknown in the earlier periods of our Government, had taken place; new agencies had been established; the outskirts of civilization had been pushed back to the Rocky Mountains; and the Indian chiefs, representing nations within whose borders, until a few years past, the foot of a white man had never trod, now visited our capital, and the principal cities of our nation. And yet, with all these facts, the statute books and journals would show that, by an unexampled economy, our expenditures had been checked within the narrowest bounds. He therefore cherished the hope that the motion would be negatived, and the original sum, as asked for, would be restored.

Mr. HILL was in favor of the general principles that had been advanced in regard to pecuniary appropriations. He was not in favor of making disbursements from the public Treasury, without knowing distinctly to what objects they were to be applied. He thought, however, that these principles, though correct in the abstract, were inapplicable to the question before the Committee. The Secretary of War had asked for a definite sum for a definite purpose. To that purpose he must be confined in the expenditure. He had acted upon his responsibility; and he (Mr. H.) thought it inexpedient, on such a call, to ask for items. When the general appropriation bill should be on the tapis, it would be undoubtedly correct and proper to inquire and examine, chapter and verse, into all the various items of expenditure that had been made under the sanction of the Secretary of War. At present he thought it premature, and as tending to embarrass the operations of the Government, without producing a single solitary advantage.

Mr. MALLARY was aware that more time might probably be consumed in deciding the question before the Committee, than the value of the amount that was now in question, under the motion of the gentleman from Tennessee, (Mr. JONES.) Yet, inasmuch as it involved an important principle, he could not regard the time as being uselessly wasted that was spent in settling a question of vital importance. Whether it should result in the appropriation of a cent or a million, might possibly be of less concern to the ultimate interests of the nation, than the decision of a point in which not only the resources of the nation, but the character of the popular branch of the Government was deeply, and he feared most materially, concerned. No matter if it is the War, or any other Department, that makes the call, when he was

satisfied that it was made in pursuance of law and of the Constitution of this country, he should not hesitate to lend his aid in supporting the grant. But where is the evidence of the fact? Where is the testimony to support, in the face of my constituents, a vote to appropriate their money to an unknown object? Mr. M. was willing to vote for the sum now proposed by the gentleman from Tennessee, (Mr. JONES,) but he could extend no farther. This sum was adequate, in his opinion, to the fair and proper disbursements that might take place prior to the general appropriation bill. To look behind, and make appropriations in the dark, where not even a feeble ray was lent us from the department where the requisition issued, was as repugnant to Congressional practice, and to the spirit and genius of our Government, as it was to the express letter of the Constitution. That instrument provides that no appropriations shall be allowed unless specially authorized by law. And where is the law for this disbursement? Where the law to justify an appropriation to cover a deficit made certainly without law, and he had almost said against it? The last year's expenditure was limited. For what purpose? That it might be a dead letter upon the statute book, or that it might be a living principle and a living law for those who came within its operation? But we are told the contracts have been made—the money spent, or at least the faith of the Government pledged. But can the faith of the Government be pledged against its own stipulations—against the express limitations marked out for its agents? Suppose a bill for raising revenue should originate in the Senate and be sent to this House, would the House sustain it, even if its provisions and objects were proper? Or suppose a bill of similar description were to emanate from the President of the United States, the grand depository of the nation's confidence, yet what would be the sensations of this body? Would they hear and grant it? No, sir, however reasonable or proper it might be, yet this House, as the immediate representatives of the people, would spurn the officious interference. They would pronounce it derogatory to their own dignity, and avow themselves the only true and legitimate guardians of the door of the Treasury. And will they treat with more respect, will they yield with more subservience to a requisition, by a Secretary of a Department, than to the executive head, or to the senior co-ordinate branch of the Government? To the representative branch the purse-strings of the nation had been confided. It was a safe deposite of an important power. Immediate responsibility to the people would be a safeguard against its abuse; and no consideration could justify a transfer of that power from the hands in which the Constitution had placed it. The moment that power was surrendered, their authority must dwindle, and the last hope of the people must expire with those who had betrayed their cause.

Mr. M. thought it was due, therefore, not only to the interests but to the character of the House of Representatives that they should act upon their

own responsibility, and be governed by their own judgment. He then referred to the letters from the Secretary of War, as laid on the table, to show that no appropriation other than to a limited extent, and to cover the disbursements of a short period, ought upon any principle of policy or Constitutional right to be granted. The agents were bound to make their returns quarterly to the Secretary of War. It was therefore difficult to comprehend that the expectation of being informed upon the subject was either unjust or improper. We have been told that a deficit of seventy thousand dollars has been incurred; but the *quo modo* is behind the curtain. Nine months had passed since the last General Appropriation bill, and not a single quarterly return had been disclosed to this House! Sixty thousand dollars only were required as a definite sum to meet the legal payments under the existing laws; one hundred thousand dollars had been appropriated the last year to the Indian department; forty thousand dollars, therefore, must have been appropriated for the incidental expenses; and yet we are told one hundred and seventy thousand dollars have been expended; that is, fifty thousand dollars according to law, and one hundred and ten thousand dollars according to discretion—seventy thousand dollars of it without law, and the whole of it without explanation or account! In this, as in every other case, it was the peculiar province of the House of Representatives to decide on the propriety of the disbursement. Never should a rule be adopted by which the discretion of a Secretary should become a law to Congress. If it is to be borne that we assume arrearsages without inquiry or without knowledge, who shall assign a limit to the draft upon the national exchequer? If our agents are allowed to probe and empty the public purse with as much familiarity as their own, to whom shall the people resort to guard them from the extravagance of their agents? As it is the right, so also it is the duty, of this House to interpose; and, unless all control of the public expenditure is surrendered, and unless the representatives of the people forget their legitimate powers and functions, I trust this grant will be limited to the extent proposed by the motion.

Mr. McDUFFIE next took the floor, and spoke for nearly half an hour to the question before the House. It was to be desired, he admitted, that every member should be acquainted with the facts necessary to enable him to decide correctly on any question presented to him; but it was equally desirable, before gentlemen require further information, that they should pay some attention to the information which they already have, and that, before they deal in lavish censure, they should understand something of the subject to which they apply it. He was himself of opinion that the information now before the House was such as ought to be satisfactory, and that the various views which had been taken in debate related to almost every thing else than the proposition actually under consideration. After stating the question before the House, Mr. McD. went on to say that the House could not, by the vote it was about

to give, compromise itself to a continuance of the existing system of Indian trade, nor would it compromise the dignity of the House. The proposition appeared to him to be a proceeding of course, and not depending, for its adoption, on the general principles of the Indian system. With regard to the information on this subject which gentlemen seemed to require, the Secretary of War had given to the House already all that was in his possession, in stating the objects of expenditure, &c. When gentlemen called for a specific account of the expenditures of the Indian department for the last year, they might, if they had attended to the letter of the Secretary of War, now before the House, or if they had taken any pains to understand the system of the Indian department, have seen that they asked what is impracticable. From the nature of the expenditures of that department, the money being advanced quarter after quarter, it frequently happened, and was so stated in the Secretary's letter, that the expenses of the whole year are incurred before a single account is received at the War Office. Any partial accounts would exhibit a delusive view of the expenditures of the past year, and could be of no use to gentlemen; from one section of the country there might be two quarters' accounts, from a remote section a single quarter's only, and from another no accounts at all, and thus nothing like a general view could be given of the whole expenditure, &c.

Mr. McD. passed on from this topic to that of the confidence which it was becoming the dignity of this House to bestow on the various members of the Executive departments, or on other members of the General Government. It was a new thing to him, he said, and perfectly strange, that a reasonable confidence in a correlative branch of the Government, equally entitled to respect with this House, should be regarded as criminal, or even blameable. It was an old maxim to trust every man in his own art, as we every day trust even our lives to those who are in the humblest conditions of life. The gentleman last up had demanded if this House was to be informed by the Secretary of War what are the necessary expenses of the War Department. If they were not, Mr. McD. asked, upon what information were they to act? Are we, said he, to shrug up our shoulders, stand still in the profoundness of our own ignorance, and refuse to receive information from the Executive officers of the Government? We had better receive it from any quarter than not have it at all—though gentlemen really seemed disposed to form opinions without information, at the same time that they undertook to censure the officers of Government for not giving it to them. If other information was wanted, Mr. McD. asked, why had it not been called for? The way to obtain it was plain and open, but no motion for the purpose had been offered, though that was the obvious course for those who complained of the want of it. He then proceeded to make some remarks relative to the economy which had been used in regard to the expenditures of the Indian department, and called the attention of the House to a comparative view of the expenditure in it, for succes-

JANUARY, 1822.

Proceedings.

H. OF R.

sive years, beginning with 1808, the last year of Mr. Jefferson's administration. In that year \$140,000 had been appropriated, and from that year to 1814 there appeared to have been a regular increase in the annual appropriation for that object; in which last year, such had been the accumulation of arrears of preceding years, that \$440,000 was appropriated. Had there been, on that occasion, any of the clamor which was now heard? Could any gentleman here recollect that three days were taken up in debating even that appropriation to supply former deficiencies? In 1815, \$200,000 had been appropriated, and the same sum regularly ever since, until the last year, when the appropriation was suddenly reduced. Mr. McD. appealed to the candor and sound sense and good feeling of this House, whether there was any thing extraordinary in the fact now presented, that an appropriation was necessary to supply the deficiency of the past year. For the last seven or eight years an appropriation has been regularly made of \$200,000, and in that time a system had been brought into existence founded on that annual appropriation, which could not be kept in operation on a less amount of annual expenditure. Was it possible, he asked, instantaneously to withdraw one half of such an appropriation from any system, extending over the whole interior surface of the country? All that could be expected by last year limiting the appropriation to \$100,000, was to give fair notice to all concerned that every exertion must be used hereafter to reduce and limit the measure of these expenditures. To expect that the system could be maintained upon the half of the necessary appropriation, might be compared to an expectation that the human body would maintain its usual health and activity on one-half of the blood contained in it being suddenly withdrawn from its veins. Mr. McD. here made a number of remarks, the object of which was to show that a great reduction of the expenses of the Indian system could not, in the nature of things, be suddenly effected, and that time must be given to realize the operation of any law intended to produce that effect. He next adverted to the distinction which ought to be taken between the system of Indian trade and that species of diplomatic intercourse which was indispensable to maintaining the relations of peace and good understanding with them—which distinction, he thought, had not been sufficiently marked in debate. With regard to the alarm which had been sounded of a violation of the Constitution—for it seemed that in these days scarcely any question could be agitated which did not involve a violation of that sacred instrument—perhaps, said he, we shall better observe its spirit if we look into it more and talk about it less. It was strange that it could enter into the mind of any human being that the question now before the House had any thing to do with the Constitution. Gentlemen would do well, he said, to examine the machinery of our Government. They seemed to think that the Secretary of War was to tell the House, not only what are the facts in regard to the intercourse with the Indian tribes, but also what are the provisions of

the laws on the subject. But gentlemen must find out these for themselves, and put their own construction on them. For this they had no right to call on the Secretary. If they were to resort to such a practice, throwing themselves on the heads of Departments for every thing, they would make this House sure enough that registering body which some gentlemen seemed, without cause, to anticipate that it might become. Some gentlemen, Mr. McD. said, seemed not to understand how moneys were drawn from the Treasury. If they supposed that the Secretary of any Department could lay his hands on the money without previous appropriation, they were entirely mistaken, &c. He made some further remarks on the expenditures in the Indian department, the sudden cessation of which, he argued, would have drawn the Indians down on our frontier, on their missing their annuities and accustomed presents, &c. It seemed to him, however, that the House had been very unnecessarily drawn into an investigation as general as the present. Let us, said he, make the partial appropriation which is now asked for, and, if it shall be found hereafter that the expenditures are improper, we can withhold the other appropriations which we certainly shall make if these appear to have been proper. He looked upon the bill under consideration as a very simple matter—a matter of course, which had been swelled to a great magnitude by what appeared to him to be idle, unprofitable, and unfounded fears. It seemed as though gentlemen could not receive a respectful request from another Department of the Government without looking upon it as though armed men were at the door requiring the House to “register” it. Mr. McD. concluded by expressing his hope that the appropriation would pass, without being particularly solicitous as to the form of words in which it should be expressed.

When Mr. McDUFFIE concluded, Mr. ALEXANDER SMYTH, of Virginia, rose, and intimated his wish to make some remarks on this subject; but, as the hour was late, he moved that the Committee rise, and ask leave to sit again; which motion was agreed to.

TUESDAY, January 8.

Mr. RANKIN, from the Committee on the Public Lands, to whom the subject had been referred, reported a bill providing for the disposal of the public lands in the State of Mississippi, and for the better organization of the land districts in the States of Alabama and Mississippi; which was read twice, and committed to a Committee of the Whole.

Mr. SERGEANT, from the Committee on the Judiciary, reported a bill for the relief of Anthony Kennedy; which was read twice, and committed to a Committee of the Whole.

Ordered, That the Committee on the Judiciary, who were instructed, on the 31st ult., “to inquire whether, by a late decision of the District Court of the eastern district of Pennsylvania, a public agent, whose claim for certain allowances in defect of vouchers had been rejected by this House,

H. OF R.

Bankrupt Law of 1800.

JANUARY, 1822.

has defeated the United States in a suit against him, by an allegation substantially different from that preferred to Congress, and one invalidated by evidence in the possession of the Government, of which the prosecuting officer could have availed himself for the benefit of the United States; and, whether the officers prosecuting suits on behalf of the United States in the several districts, for the recovery of money retained in the hands of public agents, are, under existing provisions, enabled to avail themselves of all the evidence relative to said suits, to be found among the records of Congress, or of the Executive departments," be discharged from the further consideration thereof, and that it be referred to the Committee of Claims, with instruction to make the said inquiry.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of John Coffee," in which they ask the concurrence of this House.

Mr. Cook submitted the following resolution :

Resolved, That the Secretary of the Treasury be directed to lay before this House a statement showing in what banks the money received from the sale of the public lands have been deposited since the first day of January, 1818; the contracts under which said deposits have been made; the correspondence between them and the Treasury Department relative thereto; the amount of deposits that were to be left in each, in consideration of taking charge of the balance of the money deposited; whether in any instance the deposits allowed for that purpose have been increased, and why such increase was allowed; together with the statements of their situation, furnished to said department for the last twelve months preceding such increase, as well as to the time of first making them banks of deposit; whether any of those banks have failed to comply with their engagements, and to what amount; what measures have been taken in consequence thereof to secure the Government against any losses resulting from such failure; what those measures have been, and at what expense; whether in any instance uncurrent or depreciated paper has been received from them, or any of them, which the Government was not bound to receive by any agreement between such banks and the said Secretary; and whether any further measures are necessary to be adopted by Congress to provide for the transmission of the public money from the different receivers, to a more safe place of deposit, and, if so, what plan is most advisable.

The resolution was ordered to lie on the table one day.

The bill from the Senate, entitled "An act for the relief of John Coffee," was read twice, and referred to the Committee on the Public Lands.

The bill from the Senate, entitled "An act authorizing the payment of a sum of money to Thomas Shields," was read twice, and referred to the Committee of Claims.

On motion of Mr. POINSETT, the Committee of Revisal and Unfinished Business were instructed to inquire into the necessity of renewing an act, entitled "An act declaring the consent of Congress, to acts of the State of South Carolina, authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels

from foreign ports," and to acts of the State of Georgia, authorizing the imposition and collection of a duty on the tonnage of vessels in the ports of Savannah and St. Mary's.

On motion of Mr. COCKE, the House then agreed to consider the resolution by him submitted yesterday, calling for information respecting the expenses of the Ordnance department. This resolution was adopted.

Mr. METCALFE called for the consideration of the resolution he had heretofore proposed, calling for information relative to the efforts that had been made to civilize and christianize the Indians. The House agreed to consider the same, which, after a verbal emendation, was adopted.

BANKRUPT LAW OF 1800.

On motion of Mr. BLAIR, the House agreed to take into consideration a resolution heretofore offered by him, calling upon the President of the United States for information relative to the operation of the Bankrupt law of 1800, in the States of Virginia, Maryland, Pennsylvania, and New York.

Mr. B. stated his object to be, to obtain such information relative to the operations of the old bankrupt law as might be useful, if not as a guide, at least as a reference, to those who were about to be called upon to vote for a system which he conceived to be similar in all its essential features and properties to the law of 1800. He thought no guide was so safe as the footsteps of experience. In anticipation of an objection that might possibly be urged, he would observe, that it was by no means his intention to retard the progress of the bill that had been reported on that subject—nor should he, at any time, solicit a postponement of that bill, for the purpose of gaining time to obtain the information which he now sought. He had confined the call for information to the States of Virginia, Maryland, Pennsylvania, and New York—not for the purpose of giving a partial view of the subject, but because those States were most deeply interested in, and affected by, its operation; and also because the information from those States could be obtained more expeditiously than from others that were more remote. They afforded, in his opinion, the fairest sample of its operation, and with those views, and those only, he had proposed to limit the inquiry. The reason why he addressed the call for information to the President was this: that the information desired was with the clerks of the several District Courts of the United States, and that there was no connexion between them and any of the Executive Departments; and that the course which he now proposed had been recommended to him by a gentleman of experience in the business of Congress.

Mr. COCKE proposed to amend the resolution by including the District of Columbia; which suggestion was assented to by the mover.

Mr. WHITMAN thought the proposition was of a novel character. It contemplated a call upon the President of the United States for information on a subject over which he had no more control than any member of that House. It did not refer

JANUARY, 1822.

Bankrupt Law of 1800.

H. OF R.

to any subject that could be supposed to be within the personal knowledge of the Executive. He therefore thought the call upon that officer was incorrect and improper. If the information was worth the seeking, he thought it should be obtained through the medium of a special committee, who might be instructed to inquire into the subject, and vested with the power to call for persons and papers. At all events, the President of the United States was not the proper person of whom the inquiry should be made—it would be more correct to call on the clerks of the courts, to which the proceedings were, by that law, made returnable, than to ask it of the Executive, who had no agency whatever in its execution. Mr. W. also adverted to the limited operation of the inquiry, and thought, if any importance was attached to it, it should extend to other districts than those that had been named.

Mr. BLAIR replied, and remarked that the reason for limiting the information had been that, if more extended, he feared he should not be able to obtain the result in time for any beneficial purpose, in reference to the purposed discussion. With respect to the particular officer, of whom the information was sought, he would observe that he was not tenacious of the form, but he thought, if gentlemen were not satisfied with the plan which he had proposed, it was at least incumbent upon them to provide a substitute that might attain the object.

Mr. COLDEN was satisfied with the avowal of the mover of the resolution, so far as it insured a personal commitment, that his object was not to occasion a postponement of the bill that had been made the order of the day for yesterday. But he was not equally satisfied that it would not, in its effects, work the very effect of delay which the mover had anticipated and repelled. He feared it would have its influence, and that other gentlemen might feel themselves committed by the vote they should give on the resolution before the House. The nature of the information asked for would show that it did not naturally fall within the province of the President of the United States. He was requested to furnish a complete statement of the *res gestæ* of the law—the persons who availed themselves of its provisions—the debts that were proved against them—the distribution of their estates, &c. From the nature of things, the President of the United States had no control over the subject. The clerks of the district courts did not derive their authority from the President, nor were they responsible to him for their acts. Mr. C. objected also to the nature of the information proposed by the resolution. He thought it was calculated rather to mislead than instruct—to bewilder, but not to enlighten. The law of 1800 never had a wholesome operation. It was brought forward under the pressure of extraordinary circumstances, and it subserved only a temporary purpose. Hundreds, and he might say thousands, were waiting to avail themselves of it, at the very moment of its enactment. They had been preparing themselves for it; and the moment it passed, they rushed to the fruition of the benefits they supposed it to hold forth. It was not to be supposed that such per-

sons would have property to divide. The information, therefore, contemplated by the resolution would be partial, imperfect, and unsafe. It referred to the temporary operations of the law, of which the benefits, in the result, bore no resemblance to the appearances of its outset. If the bill before the House were to pass to-morrow, many would avail themselves of it immediately, whose estates would offer no dividends to their creditors; but this would be a most equivocal and unsafe postulate, whence to judge of the final tendency and policy of the enactment. The bill of the last year was prevented from passing, as he had understood, not because it did not have the sentiments of a majority of Congress in its favor, but because it was so long delayed in its passage that there was not left time to discuss and determine it. He felt unwilling that the same result should now take place by the same means; and there was too much reason to fear that this resolution would delay and finally defeat the passage of a bill that was imperiously called for by the wants and wishes of a vast majority of the mercantile part of the nation.

Mr. LOWNDES replied to the suggestion, that the call for information was too limited, and remarked, that it was surely an unsafe position, because all the information that was desirable could not be obtained, that it was, therefore, better to have none at all. He thought it was safe and proper to rely upon the discretion of the House, in respect to the possible result of a delay; for the House had the subject always within its control, and could regulate and direct it by such principles as should appear to be equitable and just. In respect to the source of information contemplated by the resolution he would remark, that the President of the United States had a controlling authority over all the subordinate officers in the various departments of Government. His requisitions would be received with attention, and answered with respect, and it was not so much a transcript from the records of the district courts which the clerks were to furnish, as it was a digest of the information on that subject which the Executive was supposed to possess.

Mr. SERGEANT was apprehensive that the resolution, if adopted, would hereafter press seriously upon the House. Frivolous and unmeaning resolutions would never voluntarily receive the sanction of this body; and, if this should be adopted, it would be so on the ground that the information that it proposed to obtain was necessary and proper. If, then, it should not be obtained, when we arrive at the period of discussion in which it may be supposed to be appropriate, it may be difficult to resist the call for a further postponement, until it can be obtained.

Mr. S. then inquired, and examined somewhat in detail the nature and situation of the records, whose repose it was in contemplation to disturb. Under the law of 1800, there were commissioners and a secretary in each district, with whom these papers were originally placed. When their decision had been consummated, these papers were directed to be deposited in the offices of the several clerks of the respective district courts. No di-

gest or record of them was made. Of course it will be necessary, should the resolution be adopted, that the clerks or their successors should look back among the files, reproduce them to the light, open each and every file, examine them, however voluminous, from their inception to their end; and, after all, what light would they shed upon the expediency of the bill that was now upon the table? What if it should appear that the dividends had been small? That must lead to the inquiry, wherefore they had been small? for the fact, without the reason, would be a most fallacious and inconclusive guide in illuminating the path of inquiry. He would not enter, however, on that branch of the subject, and would merely observe that, although he was desirous that every sort of information should be given, yet he should be reluctantly compelled to vote against the resolution, because it would evidently occasion not only a great expense, but a consumption of time that might extremely harass, if not finally defeat a bill to which the mercantile part of the community looked with anxious solicitude.

The resolution was further supported by Messrs. WRIGHT and WARFIELD, when the question was taken thereon, and carried in the affirmative—yeas 77, nays 71.

MILITARY APPROPRIATIONS.

On motion of Mr. SMITH, of Maryland, the House then resolved itself into a Committee of the Whole on the unfinished business of yesterday, (the bill making partial appropriations for the military service of the year 1822, &c.)

Mr. SMYTH, of Virginia, supported the motion of the gentleman from Maine, (Mr. HILL,) to fill the blank with the sum of \$100,000. Laws had been passed, he remarked, to authorize the President of the United States to establish trading-houses with the Indians, to supply rations, pay annuities, and disburse the expenses that were naturally and necessarily attendant upon that intercourse. The President was bound, not only by his official duty, but by his personal oath, to see that the laws were executed. In the performance of that duty, expenses were necessarily incurred, that could be met only by the aid of adequate appropriations by Congress. The question then now occurred—Shall those contracts, entered into in behalf and for the benefit of the United States, be broken, or shall they be fulfilled? Shall the national faith be forfeited, and its honor unredeemed, or shall the frontier be exposed to hostile incursions for want of those appropriations which policy and justice combine to require? It seemed to be thought by some that the grant of an appropriation was equivalent to a law authorizing an expenditure. Nothing could be more distinct. One law made it incumbent upon the Executive to create a debt—but another law was necessary to enable him to discharge it. It seemed as if, by some accident or other, these laws had been confounded or taken the place of each other in the minds of gentlemen. The laws directing those acts that occasioned the expediency were prior, in order of time, to those which directed the means by which the expendi-

tures were to be supplied, and higher in point of obligation. The laws relating to the Indian department were of early origin. The Executive was sworn to obey them. They were imperative, too, not only upon the hand that was to execute, but upon the body which made them. A subsequent legislature might prospectively repeal, but they could not break the laws which a previous legislature had ordained. It was their duty to obey them—a duty from which even tyrants did not claim exemption. To press such a point would be unnecessary. It came home to the feelings and consciences of all. The acts of Congress were the supreme law of the land. By those acts certain duties devolved upon the Executive as the agent of the nation.

The gentleman from Vermont (Mr. MALLARY) had contended that no expenses should be incurred without the authority of law, and resorted to the Constitution to sustain him. But Mr. S. would observe that the law creating the duty that incurs expenses is one thing, and the law which authorizes an appropriation is another. This distinction might have saved the gentleman from his Constitutional alarms. The Constitution had reference to appropriations—not to the creation of expenditures. It provided, and most wisely and correctly too, that no money should be drawn from the Treasury until a law authorizing the appropriation had been duly enacted. But would it be said, when the law made it the duty of the President to incur certain undefined expenses, and a prospective estimate, from mistake or unforeseen casualty, was not large enough to meet it, that therefore to incur the expenses was illegal, or to provide for the deficit was unconstitutional? Would it be said, that, because the House of Representatives, for any reason, had not thought proper to meet by appropriation what they had made it the duty of the Executive, by previous acts, to incur, that therefore the Executive was absolved from his oath, and the accustomed functions of Government should cease? Suppose the law required the maintenance of a Military Establishment, the annual cost of which was a million of dollars. This law the President is bound to execute; but the Congress thinks proper, on a particular occasion, to appropriate but \$500,000 for its support. What shall then be done? Shall the President disband the army? or shall he execute the law, and look to the faith of a future Congress to redeem—not his pledge, but their own? Fallacious, therefore, in the extreme, was the idea that the law did not justify a call for the appropriation to supply a previously authorized expenditure. If carried into effect, the doctrine would amount to this, that the appropriation should always precede the expenditure. In respect to this doctrine, he would remark that it had become an established usage of Congress to make up past deficiencies by subsequent appropriations. Nor did he feel any alarm from such a course. He deemed it correct, salutary, and consistent with the soundest principles of public economy. Mr. S. here entered into a detailed examination of the laws that had been passed during the Administrations of President Adams, Jef-

JANUARY, 1822.

Military Appropriations.

H. OF R.

person, and Madison, and showed that appropriations to supply deficiencies had been made from time to time, and for very large amounts. In the earlier periods of the Government they were unknown—and why? The answer was obvious. The confidence in the Executive was so unlimited and profound that the appropriation always exceeded the possible disbursement. In later times a less degree of confidence had been reposed. But, should the doctrine prevail that no subsequent appropriations shall be made to cover deficiencies, what will be the consequence? The Secretaries of the Departments will be under the necessity of making out their estimates at fifty per cent. above the probable expenditure, in order to provide for possible contingencies. If they did not do it, they must inevitably find themselves not unfrequently in the embarrassed and unenviable situation of having made contracts without the ability to perform them. Frugal appropriations, and the making up of deficits, were acts that must always go hand in hand. Such was the case at the time alluded to by his colleague, (Mr. RANDOLPH,) when that gentleman was chairman of the Committee of Ways and Means. Economy was then, as now, and ever, his object. But the Journals will show, that, at that very time, very large appropriations were subsequently found necessary to meet those expenses, for which the prior estimates were found inadequate. Here Mr. S. cited from the books various acts that had been passed in relation to the subject, and showed that more than half a million had been granted to supply the deficits of three appropriations. He also examined similar appropriations during the Administration of Mr. Monroe, and showed that the practice had obtained down to the very last session of Congress. It had become a thing of course; and it was well understood that the more ample the appropriation the smaller would be the deficit. Nor could there be a doubt that the system was correct. How was it in private life? Would you remit to your agent double the sum he would probably want to perform a given service—or would you make him a more limited outset and supply the deficiencies by subsequent appropriations? But, whether the appropriations were early or late in point of time, they must be inevitably made. The agent, acting within his instructions, is not bound by the contract he may make in behalf of his principal—but the principal is. And if the agent had authority, although he might abuse his trust, yet the principal must perform the contract, though he may punish the agent.

His colleague (Mr. RANDOLPH) had, on a former day, made a comparison of the expenditures under a former Secretary of War (General Dearborn) and the present. He would soon recur to such statements as would show on which side the advantage lay, when a comparison was made. Yet he could not forbear to note that the first Congresses of the United States set an example of placing confidence in its Executive officer. Such confidence was always salutary when it was not misapplied in its object. Two millions of money were at one time placed in the hands of Mr. Jef-

erson, with no other stipulation than that he should account for it after it had been expended. And he would now fearlessly ask whether this Congress was afraid to trust the Secretary with one twenty-eighth part of the sum which had then been intrusted to the Executive? With respect to the then Secretary of War, to whom his colleague had triumphantly referred, he did not remember any signal act in his official conduct that would inspire very lasting remembrance, unless it was his sending the Army to expire and die among the fogs and damps of New Orleans. At the early period alluded to, the Army consisted of but three regiments. At a later period, viz. in 1809, it consisted of ten regiments, and the following table, which Mr. S. read, would, he said, show the comparative expenditure under the administration of the different Secretaries:

Comparison of appropriation for the regiments in 1809, (supposed on the estimates of General Dearborn,) and of appropriation for eleven regiments in 1821, on the estimates of Mr. Calhoun:

	1809.	1821.
Pay - - - - -	\$868,240	\$964,555
Subsistence - - - - -	641,018*	254,654
Forage - - - - -	64,624†	41,451
Medical Department - - -	45,000‡	24,505
Contingencies - - - - -	50,000	40,000
	<u>\$1,669,092</u>	<u>\$1,315,255</u>

Mr. S. then proceeded to show that very great improvements in point of economy and retrenchment had been introduced into the War Department by the present Secretary, since he held that office. He remarked that perhaps the best comparison that could be made to test economy would be to compare it with itself. The extravagant man naturally become more extravagant, and the economical man more economical in the lapse of time. It would be perceived, he said, by the following statement, which also he read, that very great improvement had been annually made in that Department:

Appropriations for the Army under sundry heads, for the following years:

	1817.	1818.	1819.	1820.
Pay - - - - -	1,433,872	1,303,000	1,000,000	1,036,784
Subsistence - - - - -	1,023,798	1,075,000	989,213	602,048
Forage - - - - -	68,324	3,168	26,496	6,496
Med. Depart. - - - - -	100,000	15,000	50,000	42,145
Clothing - - - - -	670,000	618,150	400,000	300,000
Contingents's. - - - - -	100,000	60,000	60,000	40,000
	<u>3,395,994</u>	<u>3,024,308</u>	<u>2,525,700</u>	<u>2,027,473</u>

That this very material reduction had been made, was owing to the superior and transcendent abilities of the present Secretary. The system he had adopted was the best proof of genius, and fully entitled him to the nation's confidence. The custom of the Government had established the

* More than double.

† Fifty per cent more.

‡ Nearly double.

H. OF R.

First Meridian.

JANUARY, 1822.

necessity of a very considerable expenditure in the Indian Department. That custom could not be suddenly departed from. If, however, it should be determined to depart from the usage, in what manner, said he, shall it be done? By withholding appropriations? No, sir; it should be by altering your laws. If your trading-houses are deemed useless, away with them. If presents are unnecessary, repeal the law that grants them. If agents are useless or faithless, dismiss them; but let no act be done that shall tarnish the national honor by broken contracts or violated faith.

Mr. WRIGHT followed Mr. SMYTH in a few remarks of the same tendency as his. At the last session, he said, the Secretary of War, whose duties were prescribed by law, which he had no option to execute or omit, had informed Congress that an appropriation of one hundred and seventy thousand dollars was necessary for the Indian Department. Congress, however, had appropriated but one hundred thousand, and the necessary consequence was a deficiency of seventy thousand dollars for that year. It could not have been otherwise, Mr. W. contended; and the Secretary of War—in whom the nation had a confidence which the present proceeding would only serve to confirm—stood, in regard to the appropriation now asked for, on very high ground. It was an unusual thing, he said, to refuse necessary appropriations, as was done at the last session; and, for the deficiency, Congress, rather than the Secretary of War, was accountable. It was ridiculous, Mr. W. said, to tell the Secretary of War, by law, you shall do this and that, and then deprive him of the necessary means to do it, &c. These, and a few other remarks, Mr. W. added to those of his friend from Virginia, who, he said, had covered the whole ground, and clearly illustrated the question before the House.

Mr. DWIGHT, remarking that the hour of adjournment had nearly arrived, moved that the Committee rise and ask leave to sit again. Which motion was agreed to by a vote of 70 to 65; and the House adjourned.

WEDNESDAY, January 9.

Another member, to wit: from Georgia, ALFRED CUTHBERT, appeared, produced his credentials, was qualified, and took his seat.

Mr. RANKIN, from the Committee on the Public Lands, reported a bill granting to the State of Alabama and to the Territory of Arkansas the right of pre-emption to certain quarter sections of land; which bill was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of James Byers, accompanied with a bill for the relief of James Byers; which bill was read twice, and committed to a Committee of the Whole.

Mr. CAMBRELENG submitted the following resolution:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of authorizing

an intercourse with Mauritius and the Cape of Good Hope, and their dependencies, according to the provisions of two British Orders in Council, bearing date the 12th July, 1820, and in pursuance of the Navigation Laws of the United States.

In offering the above resolution, Mr. C. remarked that, in the year 1820, two Orders in Council were passed, declaring these ports open to all nations. For reasons that to him were inexplicable, our own citizens were prevented by our own laws from carrying our own productions to those colonies. He wished that further information might be obtained on this subject, and was satisfied that the House would be convinced, on full investigation, that there was no reasonable impediment in the way of the object of the resolution.

Mr. SMITH, of Maryland, proposed that the resolution be laid on the table, to allow time to prepare an amendment for the purpose of making it more comprehensive; to which the mover assented.

Mr. PLUMER, of New Hampshire, submitted the following resolution:

Resolved, That the Secretary of War be directed to communicate to this House a statement, so far as the same may be in his power to make, of the amount and objects of such expenditures as have been incurred in the Indian department during the last year, beyond the sums appropriated by law for that department; and also to inform the House what were the circumstances which, in his opinion, rendered necessary such excess of expenditure beyond the appropriation.

The resolution was ordered to lie on the table one day.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, communicating a report, in part, of the Commissioner of the General Land Office, of the proceedings under the act of the 2d of March, 1821, for the relief of purchasers of the public lands prior to the first of July, 1820, in obedience to a resolution of this House of the 26th ultimo, which were referred to the Committee on the Public Lands.

The SPEAKER also laid before the House a letter from the Secretary of the Navy, on behalf of the Commissioners of the Navy Pension Fund, communicating the annual report upon the state of that fund; which were referred to the Committee of Commerce.

Mr. ARTHUR SMITH submitted the following resolution:

Resolved, That the Secretary of War be directed to inform this House whether any measures were adopted with a view to lessen the contingent expenses of the Indian department for the year 1821; what measures, if any, were adopted for that purpose, and at what time.

The resolution was ordered to lie on the table for one day.

FIRST MERIDIAN.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

In pursuance of a joint resolution of the two Houses of Congress on the 3d of March, 1821, authorizing the

JANUARY, 1822.

Unavailable Funds.

H. OF R.

President to cause such number of astronomical observations to be made, by methods which might, in his judgment, be best adapted to insure a correct determination of the longitude of the Capitol in the City of Washington, from Greenwich, or some other known meridian, in Europe, and that he cause the data, with accurate calculations, or statements founded thereon, to be laid before them at their present session, I herewith transmit to Congress the report made by William Lambert, who was selected by me on the 10th of April last to perform the service required by that resolution.

As no compensation is authorized by law for the execution of the duties assigned to Mr. Lambert, it is submitted to the discretion of Congress to make the necessary provision for an adequate allowance to him, and to the assistant whom he employed to aid him in his observations.

JAMES MONROE.

WASHINGTON, January 8, 1822.

The Message was read, and so much thereof as recommends that a compensation be made to Mr. Lambert and his assistant, was referred to the Committee of Ways and Means, and the residue thereof ordered to lie on the table.

On motion of Mr. VANCE, the House then proceeded to consider the resolution submitted by him, calling for information of the number and description of agents, sub-agents, &c., employed in the Indian Department; which was considered and agreed to.

On motion of Mr. NELSON, of Maryland, the report of the Committee on Manufactures against the expediency of laying further impost duties for the encouragement of manufactures, was taken up, and referred to the same committee to whom was referred Mr. BALDWIN'S resolutions proposing certain modifications of the duties on imports, &c.

UNAVAILABLE FUNDS, &c.

On motion of Mr. COOK, the House agreed to consider the resolution by him yesterday submitted, calling for information from the Secretary of the Treasury, relative to the unavailable funds of that department.

Mr. RANKIN had no objection to the substance of the resolution before the House, but he thought the form of it might be varied with advantage. If it was made to occupy so much space as its terms would embrace, it would be so complex and voluminous, that it would never be examined with that attention which its importance required. With these impressions, he would propose to strike out all that part of the resolution that follows the word "Resolved," and to insert, in lieu thereof, the following:

Resolved, That the Secretary of the Treasury be directed to inform this House what amount of the public money, termed in his report of the 12th of February, 1821, "special deposits in certain local banks," has since that time been paid, and what measures have been adopted to secure the residue of such deposits; what other sums, since that report, he has ascertained to be added to the public funds not available, with the places where the same are situated, and the causes which may have rendered them un-

available; also, what notes of the local banks he may have instructed the receivers of public moneys to take in payment for public lands, at the several land offices of the United States, and the rules and reasons that may have governed him in giving such instructions; whether the notes of any bank, not redeeming its notes by specie, have been, or now are, made receivable at such offices; and what legislative provisions, if any, are necessary to prevent an accumulation of unavailable funds arising from the proceeds of the sales of public lands, and for transmitting the moneys received at the several land offices, to the Treasury of the United States, or other safe places of deposit.

Mr. COOK opposed the amendment. On a former day, the gentleman from Mississippi (Mr. R.) had submitted a resolution embracing the general object of the present inquiry, to which he (Mr. C.) had proposed an addition. It was complained of, that it was too complex, and, on motion of a gentleman from Kentucky, (Mr. HARRISON,) it was printed, and ordered to be laid on the table. From that situation it had not been called up either by the original mover, or by the gentleman from Kentucky. He (Mr. C.) was satisfied, however, that even the original proposition, as amended, did not sufficiently embrace all the proper objects of inquiry. He entertained no doubt that the Secretary of the Treasury could arrange the subjects referred to in such a manner as to be clearly understood by the House. It was well known that nearly a million of dollars had been deposited in certain local banks that were properly described under the designation of unavailable funds. In these times of strict scrutiny, it was desirable to know why and wherefore these funds had become unavailable. It had been said, (how correctly he could not pretend to say,) that these deposits had been made after the credit of the banks had become so far impaired that individuals would not deposit their own money in them. It was supposed that the Secretary of the Treasury knew the condition of the banks in which the deposits were made, and it was desirable that the correspondence on that subject be laid before the House. In the Western country, banks had failed soon after the deposits were made, and in one bank particularly rumor had declared that deposits had been made at the time of its failure to the amount of \$152,000, of which \$52,000 had been deposited after it was known that its credit, if not desperate, was doubtful. There was another point of view in which this inquiry was important. It was said that these deposits were made under contracts that they should continue for a given time—say for three or six months. In this way they were converted into a kind of loan—and this for the alleged purpose of enabling the banks to go on with their business. If the facts were so, he thought they could not be considered as prudent measures. At any rate, it was proper that Congress should see on what principles the business had been done. It was the duty of the House to keep a watchful eye over the pecuniary concerns of the Government—and that they had a disposition to do so was lately manifested in the clearest manner. He wanted,

he said, to understand something about the moneyed concerns of the country, the more especially as they were kept so much in the dark; for the report of the Secretary of the Treasury, at the commencement of the present session, did not shed a ray of light on the subject; and the report upon the subject at the last session had afforded but little more information respecting it. The Secretary had indeed told the House of what banks the depreciated paper was, &c., but he had not informed the House how he had received it, or under what contingencies and circumstances losses had been sustained by the Treasury. Since, then, there was so much in the dark, and so much that ought to be brought to light, why was objection made to his motion? The bulk of the information asked for was not, he said, a sufficient ground of objection. In regard to the Yellow Stone Expedition of last year, when a document of the size of a family bible was presented to the House, its bulk did not induce the House to shrink from the call for it, nor from having it printed. Calls had been authorized, freely, on all subjects, and never shrunk from, particularly when they related to the money concerns of the country; and he did not see the reasonableness of the objections now made.

MR. HARDIN said, it was but a day or two ago that the House had been informed that, in defiance of law and of a proper sense of propriety, the Secretary of the Treasury had appointed a Senator to inspect the land offices, &c.; and, Mr. H. said, anxious that the gentleman should be furnished with all the information necessary to guard the State which that gentleman represents from all attempts to corrupt it, he had voted for that resolution. We hear to-day, said he, that there has been mismanagement of the Treasury; and, throughout the whole of the gentleman's remarks, the conduct of the Secretary of the Treasury has been called in question. I have, said Mr. H., the utmost confidence in that officer—as much as I can have in any man, and in the correctness of his conduct; but, as the gentleman from Illinois seems to wage a determined warfare against that gentleman, I hope my friend from Mississippi will let his resolution pass, and let the gentleman guard the State of Illinois, and every other State in the Union, from corruption in any quarter. Mr. H. knew, he said, that there was in the Treasury a great amount of unavailable funds. This arose from the ephemeral duration of the banks which had started up in various parts of the country, whose paper the Secretary of the Treasury was importuned, on all hands, to receive in payment of debts due for public lands; and which the Government was compelled to receive, and, after it was received, was further obliged, in order to make any use of it, to deposit it in those very banks. This was to enable the people to pay their land debt—a debt which the gentleman from Illinois had often told the House, hung heavy upon them. By opposing this resolution, Mr. H. said, some ground might be given for the suspicions which had been insinuated in regard to the Secretary of the Treasury. Let, then, the inquiry

be made; and, when all was said and done, the gentleman would find that his own State had failed in debt to the Government to an amount of more than a dollar for every soul in it. He wished to see this inquiry. Nay, said he, let us take the bull by the horns at once—no doubt the gentleman from Illinois can manage him. For one, said Mr. H., he was tired of these insinuations, and wished to see something like facts presented in lieu of them.

MR. COOK made some observations in reply to Mr. HARDIN. He should not object to any inquiry lest it might affect the State of Illinois: he was desirous to have the facts before the House, whomsoever they might affect. If there was a belief in the public mind that there had been a mismanagement in the administration of the money concerns of the country, let the information be called for; and, if the public mind be mistaken, that is the way to correct its impressions. For this information which he wanted, Mr. C. said he did not choose to go in secret to the head of the Department to ask for it, but chose to call for it publicly, as he had a right to do. He would, he said, march on in the line of his duty, whether in doing so it bore hard on his constituents or not. If there were just grounds to apprehend mismanagement, fraud, corruption, or dereliction of duty, he cared not whom it concerned, he considered it his duty to inquire into it. If the Treasury Department was entitled to all the confidence, to which, said he, I trust in God it is entitled, let us see it. For I here declare, if my impressions and the public report are wrong, I will take as much pleasure in doing justice to that officer as any other man would. Mr. C. wished, he said, to give a reasonable confidence to the officers of Government; but when there is reason to fear, or the people begin to apprehend, that that confidence is becoming too great; that the interests of the Government are jeopardized; that the purity of the administration of the Government is sullied—it is time that the matter be examined, and a remedy applied, if there be any thing wrong. On this subject, Mr. C. said, he had no personal feeling. No such motive actuated him; and he presumed that no gentleman came to this House to give vent to such feelings. The information which he sought for, he said, was necessary for the satisfaction of a portion of this community. If there had been mismanagement, he wished to know how and wherefore. But it was not for him to assail the motives of the Department, if it should appear to have been in the wrong. It might have erred from want of judgment, or under the influence of the circumstances mentioned by the gentleman from Kentucky. If the debt of the Western country for lands had borne hard on the people, it was the business of this and the other House, and not of any officer of the Government, to undertake to legislate for their relief. Let such measures at least have the sanction of Congress, and let not any individual usurp authority, and undertake to do, of himself, what it exclusively belongs to Congress to do.

MR. RANKIN said he had by no means intended to intimate that the Secretary of the Treasury

JANUARY, 1822.

Unavailable Funds.

H. OF R.

would find any difficulty in making a satisfactory report in reply to this resolution; but he apprehended that in its present shape it might produce a cumbrous mass of information, in a shape not to be useful to the House. But, he said, he knew that the speeches made on this floor were heard, and would go forth to the public. And, inasmuch as an impression might go abroad, from what had fallen from the gentleman from Illinois, that the Secretary of the Treasury had violated his official duty, and disregarded the public interest, he, (Mr. R.) should do injustice to the Secretary of the Treasury in withholding any information, by his amendment, which the gentleman from Illinois had proposed to call for. He therefore now withdrew his proposed amendment. In that officer, Mr. R. said, he had the utmost confidence, and when the required information came before the House, Mr. R. said, he had no doubt all these insinuations would be entirely dissipated, and which, he must be allowed to say, he regretted had been thrown out.

Mr. BALDWIN was willing and disposed on all ordinary and proper occasions to lend his sanction to every call for information. In the present case, however, he thought the call was of an extraordinary character. It had been accompanied and enforced by a speech containing very broad insinuations against an important public officer. It was no doubt the right of the members of the House to make such insinuations—but it did not follow that the House were bound to adopt and sanction them as their own. Where a resolution was introduced accompanied by charges of official misconduct or corruption, it was proper that it should be attended with specifications of a clear and definite character. If not so accompanied, he thought the imputations should be distinctly disclaimed by the mover, or made the foundation of a proceeding of a different character.

Mr. COOK said, he rose to know whether he understood the gentleman from Pennsylvania. He considers me, said Mr. C., as having made charges against the Treasury Department. I have stated what I understood to be public report: I have not said that the Secretary of the Treasury is guilty. If I had said it, I should have done so on examination, and should have been ready to substantiate what I had said. I have declared, that, if my impressions are wrong, I shall be glad to expunge them. I have made no charges. But there are facts which I go upon. We have it known to us, that there are cases of failure of banks, in which the public money has been deposited—one of them since the last session of Congress, for a hundred and fifty thousand dollars. Were not the reports, previous to the last session, such as to warn the Treasury Department from subjecting the Government to the chance of such a loss? Mr. C. said he understood, and he believed it, that, anterior to some period in the last Spring, the deposit of the United States in the bank of Missouri amounted to \$100,000; that, subsequent to that period, the deposit in that bank had been increased to \$150,000, and he understood, and gave credit to the information, that that bank was, by an

understanding with the Treasury Department, authorized to retain this deposit of \$150,000 for six months after notice of an intention to draw for it. He wished to know by what authority, by what provision of law, by what custom, the Secretary of the Treasury was allowed to deposit money in banks with an understanding that it was not to be drawn out again. Suppose, Mr. C. said, that the monthly returns to the Treasury from such banks had shown that they were on the eve of insolvency—what law authorized the money of the United States yet to be left in their hands? If the Secretary of the Treasury has authority to make such an engagement, said Mr. C. I am mistaken: I do not think he has. If he has authority, let him show it. If he has exceeded his duty or his authority, it ought to be inquired into. But, Mr. C. said, he made no charges. He wanted information. He knew that the Government sustained, from these unavailable funds, a loss of something like a million of dollars; and, without going to the Treasury to inquire into the history of it, he wished the information on the subject to be communicated to this House. He had confidence, he said, in the officers of Government, which extended as far as was consistent with the station which he held; but when circumstances justified inquiry, he felt himself bound, as a public servant, to institute it.

Mr. BALDWIN said he was glad to hear the gentleman disclaim the imputations he had before understood him to make. He would propose to him, however, a course different from that which he had taken. He (Mr. B.) thought it would be most correct to raise a committee on the subject, and to invest them with power to send for persons and papers. Were a different course pursued, it might be understood to implicate the House in the views of the mover, such as they had been avowed to be. It is now the course, every day, to investigate some of the departments of the Government. As soon as you leave your chair, Mr. Speaker, the conduct of another Secretary is to be scrutinized. A few days ago, the same thing was proposed by a gentleman from Maine, (Mr. WHITMAN,) in relation to the transactions at Pensacola, by which the conduct of the Executive was called in question. He (Mr. B.) thought the course an improper one then, and he thought so now. But, if a select committee be appointed on the subject, the House would not be committed to any course, and every transaction and every abuse might be fully searched and fairly investigated, and a report be made on the merits of the case.

Mr. SMITH, of Maryland, was in favor of the course suggested by the gentleman from Pennsylvania, (Mr. BALDWIN,) and adverted to previous instances in the history of our Government, in which that practice had obtained—particularly the case of a Secretary of the Treasury, in which, though the chairman of the committee was not friendly to him, a report had been made highly honorable to his character, &c.

Mr. COOK thought the inquiry he had proposed was altogether similar to a number of resolutions that had been already adopted during the present

session. It was neither his intention to arraign or investigate the motives of the Secretary of the Treasury—his principal object was to obtain such facts from the records of that Department as might give the information he sought. In order, however, to try the mind of the House, he would, according to the suggestion of the gentleman from Pennsylvania, modify his motion, so as to refer the subject to a select committee, instead of calling on the Secretary of the Treasury for the information he wished.

Mr. LOWNDES suggested, that, if the object of the resolution were only to appoint a committee to procure the information required by the resolution, it was not an unusual or desirable course. The information desired, could be obtained in no way so easily, as by a direct application to the Treasury Department. The machinery of a committee could not be necessary, unless something more than information was desired. The objection to the resolution, in the shape which it had now assumed, was, that, if adopted, it would convey a reflection on the Secretary of the Treasury. He could not, for himself, vote for any such resolution, without clearly understanding what it did import. However unwilling to defer to another day the decision of this motion, he felt himself obliged, under the change of form which the author of it had given to the resolve, to move now that it lie on the table and be printed.

Mr. TRACY was opposed to laying the resolution on the table. He had heard no reason in favor of the motion. He thought it a common resolution for the ordinary purposes of inquiry. He could perceive nothing against it but its prolixity. For himself, he could discover nothing in it that implied censure of the Treasury Department; but, if there was, he thought the reason for its adoption still more imperative.

Mr. LOWNDES regretted that the gentleman from New York could discover no reason for the motion he had made; and rather thought the gentleman did not understand the question now before the House. It was not a resolution calling on the head of the Treasury Department, but a resolution to raise a committee to investigate certain transactions of that Department. Before he could assent to so serious a measure he wished for further time to deliberate and examine the terms of the resolution; and he thought its prolixity also was a sufficient reason why it should be printed, that it might be better understood than it could be by the mere reading of it from the Clerk's table.

Mr. FLOYD was of opinion that the committee ought to be raised, under the circumstances of charges being made of misconduct against an officer of the Government. If the motion were, as first proposed, without the reasons which had been assigned in favor of it, a mere call for information, it would have been in the usual and proper course of business. But, said he, when we hear of corruption, of improper conduct in the money transactions of the Government, of influencing and corrupting members of Congress, I cannot conceive of any thing more horrid to the feelings of an honest man; and he considered it of vast im-

portance to the feelings and character of the gentleman who was at the head of the Treasury Department, that a committee should be raised to inquire into the subject.

Mr. MITCHELL said, he hoped the resolution, as modified, would be ordered to lie on the table. He was not himself, from hearing it read from the Chair, possessed of all its bearings. Other gentlemen differed among themselves as to what would be the effect of it—which clearly proved to him that the House was not now prepared to act on the subject, and that the resolution ought to be laid upon the table for further examination.

Mr. REID was opposed to the present shape of the resolution, but thought there could be no impropriety in passing the resolution in the form in which it was originally introduced. He hoped it would resume its original shape, and then be adopted. With this view, he was opposed to laying the resolution on the table; and, if the mover did not modify his motion, he himself would then move to restore it to its original shape.

Mr. TOMLINSON was impressed with the same sentiments as the gentleman who had just spoken. As first introduced, the resolve called for information only, nor did he understand it as implying any censure of the Secretary of the Treasury. As modified it proposes more—it contemplates the appointment of a committee, on the part of this House, to institute an inquiry. Before this was done there should be facts set forth on which to rest such an inquiry. He was not prepared for such a measure; but, if the gentleman from South Carolina (Mr. LOWNDES) would withdraw his motion, he (Mr. T.) would move to replace the resolution on the footing on which it was first introduced.

Mr. LOWNDES assented, and withdrew his motion to lay the resolve on the table; and, thereupon—

Mr. COOK withdrew his modification for the appointment of a committee; when the question was taken on the resolution, as first submitted, and carried *nem. con.*

MILITARY APPROPRIATIONS.

The House then again resolved itself into a Committee of the Whole, on the bill making partial appropriations for the support of the Military Establishment for 1822.

The appropriation for the Indian department being yet the subject—

Mr. DWIGHT supported the appropriation as originally reported by the Committee of Ways and Means. The rapid and forcible manner of the speaker prevented the Reporter from preserving more than a summary of his observations. Mr. D. remarked that so much had been already said on this subject, and so much time consumed this morning in discussing other topics, that he should forbear to enter into that minute investigation which other gentlemen had made before him. He did not propose at this time to examine the expediency or in expediency of the laws relating to Indian affairs; they were in existence, in full force, and unrepaled. The policy that dictated them

JANUARY, 1822.

Military Appropriations.

H. OF R.

was not now in question: but the honor, the dignity, and the policy, of the Government which regarded their fulfilment was deeply involved by the question before the House. The House had been told of the errors of a blind confidence. He would not stop to contrast them with the results of weak credulity. Both should be avoided; and the ordeal which the public functionaries should pass was, in his opinion, that in which justice presides. Through that ordeal the distinguished individual who presides over the War Department would pass unhurt. The honorable member from Virginia (Mr. SMYTH) had clearly proved that the most wholesome economy had been introduced by the present incumbent into the War Department. He (Mr. D.) would not undertake to make clear a point that had been already shown to be unquestionable. From the first moment of the Secretary's induction into office, retrenchment of expenditure had been his principal aim. He, and he alone, had established a practical economy on the subject. The chairman of the Committee of Ways and Means had spoken of an error of thirty thousand dollars in the computation of expenditure; but in pruning the branches he feared the committee, in its undistinguishing zeal, had destroyed the branches and the trunk together. Mr. D. was ready and disposed to meet the advocates of retrenchment at the threshold; and if it should appear that the Secretary of War had not done all that was competent for him to do, he would admit a fallacy in his argument. Mr. D. then read a letter, and also a circular, that had been addressed by the Secretary of War to the respective agents of the Indian department, by which it appeared that he had taken every possible precaution to retrench, as far as in him lay, the expenditures of this department, as soon as the will of the Representative branch was known. But surely it would not be supposed that the Secretary had the power of transmutation, or of converting stone into gold. He could not at once, and by a single effort, reduce an expenditure of two hundred thousand dollars to one hundred thousand, where the subject-matter of retrenchment was in contract, and predicated upon a previous system. The question in discussion was not, Mr. D. contended, between the nation and the Secretary of the War Department, but between the nation and its own agents, and its own contracts. In the last Congress, the Committee of Ways and Means had struck a blow at the root of that Department. For he would ask whether the Secretary of War could do more, on the immense line of frontier, extending from the St. Mary's to the source of the Missouri, than to issue his circulars for all possible retrenchment? And this he had done. It was not to be expected that the same policy could be resorted to as if the retrenchment regarded the District of Columbia. Here it would be subject to his personal inspection; there it was liable to the vicissitudes of time and the protractions of distance. The chairman of the Committee of Ways and Means had said that the Secretary of War had made a mistake of thirty thousand dollars, not contemplated in the original bill.

This difference, instead of being a mistake in the Secretary's estimate, was referrible to an expenditure before the present incumbent came into office. It was provided for to cover the claims of Ward & Johnson, in the years 1815 and 1817, and of course had no connexion with the expenditures made under the direction of the present Secretary of the War Department. The present question, Mr. D. said, was between the nation and our frontier settlements. If the appropriation was not sanctioned, it was not the Secretary of War that would suffer, but it was the agents of the nation; it was the character of the nation that would deeply suffer from the omission to redeem its plighted faith. The proud sons of the forest, whom we saw in the gallery this morning, were not induced to come hither to become intimidated by the *arms*, but influenced by the *arts*, of this people. Arms have no power over them; nor had he (Mr. D.) the folly to allude to the "warwhoop that should wake the sleep of the cradle." The sound to be raised was that which should wake the slumbering justice of the country. They were nations whose power was not to be despised. The Pawnees alone could bring one thousand five hundred warriors to the field; and the object of the Indian system was to preserve peace with the various tribes. The same system had been pursued in relation to the more civilized, but equally ferocious marauders of the southern shores of the Mediterranean. Grants and subsidies had in former days been allowed them with no sparing hand. Millions had been appropriated to propitiate them, whilst our red brethren of the forest were now about to be denied a sum which was contemplated by treaties, and guaranteed by the justest expectations of the people.

Mr. MITCHELL, of South Carolina, thought it incumbent upon him to explain the reasons of the vote which he proposed to give, in opposition to the report of the Committee of Ways and Means, of which he had the honor to be a member. Mr. M. then examined at considerable length the various documents that had been presented in relation to the subject. He thought there was not that full disclosure on the part of the Secretary of War, in relation to the deficiency, which the House had a right to expect. A full and complete account current, comprising the various items of expenditure, should, in his opinion, be specifically brought forward. He was not for reposing confidence where it did not meet a reciprocation. Jealousy, however detestable in private life, was as necessary in relation to our public servants as courage was to the soldier, or patriotism to the statesman. In Athens, even virtue was sometimes banished, lest its influence might become too powerful for resistance.

Mr. BUCHANAN, of Pennsylvania, addressed the Chair as follows:

Mr. Chairman—On Friday last, when the House adjourned, I did believe that the subject now before the Committee was involved in doubt and in mystery. I thought that a dark cloud hung over the transaction, which ought to be cleared up before the House could give its sanction to this appropri-

ation. After a careful examination, the mystery has vanished—the cloud has been dispelled—and, to my view, the subject appears clear as the light of day. If it had not, my vote would be given against the appropriation; because, in a Republican Government, doubt and mystery, in any measure proposed by the Executive Department, should always be sufficient to prevent it from receiving the support of the House.

In the remarks which I propose to submit, it will be my endeavor to communicate to the Committee the reasons upon which I have come to the determination to give this appropriation my unqualified support. If I should be wrong, there are many gentlemen in the House whose judgment and whose experience will enable them to correct my errors.

Nice distinctions have been drawn between a just confidence in the Executive Departments, and an unreasonable jealousy of their conduct on the one side; and, on the other, between that, confidence, and a belief in their infallibility. Extremes in such a case are very dangerous. Whilst unreasonable jealousy of men in power keeps the public mind in a state of constant agitation and alarm, a blind reliance upon their infallibility may enable them to destroy the liberties of the people before they are aware of the existence of the danger. At the same time, therefore, that I trust I am one of the last men in the House who would consent to establish the office of dictator in the Commonwealth, or to believe in the infallibility of mortals in politics more than in religion; yet, I should think it wrong to withhold from a public officer that degree of confidence which assumes that he has acted correctly, until the contrary appears. It ought to be a maxim in politics, as well as in law, that an officer of your Government, high in the confidence of the people, shall be presumed to have done his duty, until the reverse of the proposition is proved.

These observations are made, not because I believe they have any bearing upon the present question, but simply in answer to those used by gentlemen who have argued upon the opposite side. The Secretary of War, upon the present occasion, requires not the aid of presumptions in his favor, because, to my mind at least, there is the most full, satisfactory, and self-evident proof.

Before I come to the principal question, Mr. Chairman, permit me to answer one of the arguments which has been eloquently and ingeniously urged by the gentlemen opposed to this appropriation.

It has been said, with truth, that the Constitution provides, "That no money shall be drawn from the Treasury but in consequence of appropriations made by law." It is certain that this provision is the best security for the liberties of the people in the whole of the instrument. Once transfer this branch of power, vested in Congress, by the Constitution, to the Executive, and your freedom is but an empty name. That Department of the Government having then the command of the purse, might very soon assume the power of the sword.

Has the Secretary of War violated this salutary provision? Has he drawn money out of the Treasury without an appropriation made by law for that purpose? Unquestionably not. So far from asking you to sanction such an unconstitutional measure, he is now requesting you to make an appropriation to supply a deficiency in the means which you had provided to enable him to discharge positive duties, enjoined upon him by your own laws.

Whether this deficiency shall be supplied out of the public purse, or the Secretary be made responsible in his private capacity to those with whom he has made contracts on the faith of the Government, is the only question now before the Committee.

Here let me ask gentlemen, why they are so much alarmed at the fact that the appropriation has proved deficient? Deficiencies must and will occur so long as the men who wield the destinies of this Government are fallible. Nothing short of the spirit of prophecy can prevent them from happening, unless Congress should think proper to make such overwhelming appropriations as would be sufficient to cover all contingencies, not only probable but possible. They existed even whilst the gentleman from Virginia (Mr. RANDOLPH) was Chairman of the Committee of Ways and Means. I speak the honest sentiments of my heart when I declare that, in my opinion, he possessed as much penetration as any gentleman who ever occupied that distinguished station. Calculate, with the nicest precision, the future probable expenses of any department of the Government, and in the course of the year for which the estimate is made suppose there should be no events of extraordinary occurrence, still it will be a miracle if ever the appropriation shall be exactly equal to all the necessary expenditures. At the instant of time when the sum appropriated is expended in executing your laws, would you have the wheels of Government to stop? Would you declare that all your public agents who had served you faithfully should receive no compensation, merely because either you or your Secretary of War, in the beginning of the year, could not foresee the expenses which might be incurred before its end?

Take for example the Army. Admit, for the sake of argument that which is impossible, even in times of the most profound tranquillity, that you had estimated its future annual expense to a fraction, and had made an appropriation accordingly. Suppose that during the recess of Congress political storms should envelope your country, that treason at home, or war from abroad, were about to disturb your peace, and that the point of meditated attack was within the knowledge of your Executive. Under such circumstances, would the President of the United States be justified, either to his conscience or to his constituents, if he were not to march the Army from all quarters of the Union to the district in danger. What would you then think of his justification, if he informed you, that he neglected to provide for the common defence, because the Army appropriation was too small to enable him to embody the forces.

JANUARY, 1822.

Military Appropriations.

H. OF R.

Such conduct would be treason against the Republic.

Your security, in all cases of this kind, arises from that admirable provision of the Constitution which declares that no money shall be drawn from the Treasury but under the authority of law. When any officer of the Government applies for the passage of a bill to supply a deficiency, you always inquire into the reason why it has occurred; and, if his conduct, upon examination, is found to be correct, you will, as you have always hitherto done, supply the deficiency.

This course of policy is not only necessary in itself, but it gives you a much greater control over the public purse than if, in the beginning of the year, you were to make your appropriations sufficiently large to cover all contingencies. Such conduct would be a powerful temptation to the officer to become extravagant in the expenditure of public money.

Let us, then, inquire whether it was necessary that the sum of \$170,000 should have been expended in the Indian department during the year 1821, to carry into effect the spirit and intention of the different acts of Congress.

It has been urged, that, as Congress appropriated but \$100,000 to defray the current expenses of that department during the last year, the Secretary was bound to confine himself within that amount. The necessary consequence would be, that the laws establishing that branch of our policy were, in this manner, at least in part, repealed.

This is, I confess, the first occasion on which I have ever heard that a system of laws which had received a fixed construction by the practice of the nation for more than twenty years, could be repealed, not by withdrawing the whole, but a part of the appropriation necessary to carry them into effect. If this were the case, it would give to estimates, uncertain in their very nature, the effect of expunging from our statute book the most wholesome regulations. Nay, more, it would be delegating legislative power to the Head of a Department, and would introduce the very evil against which gentlemen are so anxious to guard. By this construction, if there be laws in existence enjoining a variety of duties on any officer of the Government; and if, to enable him to discharge all those duties, an annual expenditure of \$170,000 is necessary, your appropriation of but \$100,000 to that purpose would make him the legislator, instead of yourselves. You thus necessarily vest in him the power of deciding what parts of the system shall remain in vigor, and what parts shall fall before his power. In order to ascertain what laws are repealed, you would be obliged to resort, not to your statute book, but to the Head of a Department. Even then, they would be forever varying, because, whilst he confined himself within his appropriation, he might at pleasure range through the whole system as it originally stood, and select from it such parts as he thought proper to carry into effect. This is not the manner in which Congress ever will, or ever can, manifest their intention. If they desire to reduce the ex-

penses of any Department of the Government, they themselves will lop off every branch which they deem superfluous, and not leave it to the discretion of any Executive officer, no matter how exalted his station. Whilst, however, certain duties are enjoined on any Department of the Government, by acts of Congress, or by treaties, we are bound to supply the officer with the means necessary to the performance of those duties. If, in such a case, our appropriation has been insufficient, we ought at once to supply the deficiency.

What then is the present condition of that Department of the Government called the Indian department? The objects of its expenditure, designated by acts of Congress, and by treaties, which are equally the supreme law of the land, are of a two-fold character. From the nature of the first, the probable expense can be ascertained without difficulty, because it consists of the salaries allowed to agents, sub-agents, interpreters, and blacksmiths, and, we are informed, by the letter of the Secretary, that its amount is not less than sixty thousand dollars annually. The other objects of expense, although authorized by acts of Congress and treaties, are, in their character, so uncertain that the expenses incurred upon them are necessarily contingent in amount. They are detailed in the letter of the Secretary of War, and consist of "occasional presents to Indians visiting the Agencies, rations issued to them while there, also to distressed Indians, and to the Indians when assembled, for the purpose of distributing their annuities, transportation of annuities, farming and manufacturing utensils for the use of the Indians," &c. The two acts of Congress, the one passed the 13th May, 1800, and the other the 30th March, 1802, are the foundation on which our system of policy, towards the Indians, has been raised by subsequent legislative provisions and by treaties. The expenses of this department were—

In 1808	-	-	-	-	-	\$140,600
1809	-	-	-	-	-	125,600
1810	-	-	-	-	-	146,600
1811	-	-	-	-	-	146,600
1812	-	-	-	-	-	164,500
1813	-	-	-	-	-	164,500
1814	-	-	-	-	-	464,500
1815	-	-	-	-	-	200,000
1816	-	-	-	-	-	200,000
1817	-	-	-	-	-	200,000
1818	-	-	-	-	-	250,000
1819	-	-	-	-	-	213,000
1820	-	-	-	-	-	200,000

In addition to these sums, which appear on the appropriation bills of the several years, the last Congress supplied a deficiency of \$130,205 44, for the years 1815 and 1817.

This system, so eminently calculated to preserve tranquillity around our borders, and to prevent the intrigues of another nation from obtaining for them an undue ascendancy over the minds of the savages, had been long established, and was as much incorporated into your policy as that of sending ambassadors to foreign courts. Did Con-

H. OF R.

Military Appropriations.

JANUARY, 1822.

gress express any disapprobation of this system? Did they destroy any part of the bill which appropriated \$100,000 for the current expenses of the year? Did they intend that the Secretary should destroy the objects of ascertained or of contingent expense? Both had been equally provided for by your laws and by your treaties. Did Congress mean either that the Indians should receive no rations at your military posts, or that no presents should be given to them, or that they should be deprived of the benefit of receiving agricultural instruments from your hands? If they did, they have expressed no such determination by any law. The consequence of the construction contended for is, that if they intended any thing by appropriating but \$100,000, it was to enable the Secretary to legislate in your behalf, and to repeal so much of existing laws and existing treaties as would reduce the expense to \$100,000. This he had no power to do, and to allow him to exercise it would establish a most dangerous precedent against the liberties of this people. It would be to allow an officer to stop the wheels of Government, and paralyze the energies of the law the moment the appropriation which had been made was expended.

Could the Secretary have ever supposed that you intended to destroy any part of this establishment? Certainly not, because the expenditures are most just as well as most politic. You have driven that noble race of men from the hunting grounds which God and nature intended for their support. You have caused intestine wars to rage continually among them, by driving remote tribes near together, and thus making it necessary to their existence that they should invade the hunting grounds of each other. During the very last year, it appears from the letter of the Secretary that the disbursements have been increased by the emigration of the Indians from the States of Ohio, Indiana, and Illinois, beyond the Mississippi. After thus crowding them together, you make them waste their scanty supply of game, by inducing them to destroy it without necessity, so that you may obtain their fur to gratify your appetite for luxury. In this situation, to which they have been reduced by our policy, the laws have provided that, when the cravings of hunger shall drive these children of the forest to your military posts, either on the frontier or in their own territory, they shall receive food; that, in order to preserve their existence, and enable them to live upon the circumscribed limits within which they have been driven, they should be taught agriculture, and receive the implements of husbandry; that, when their chiefs think proper to visit your metropolis, you will enable them to do so by paying their expenses, and thus manifest to them the extent of both your power and your friendship. In short, all the other provisions which our laws and our treaties have made for them, and which I shall not detail, are founded, not only in the strictest justice, but in the wisest policy.

Did Congress intend, by the mere act of appropriating \$100,000 for the current expenses of the last year, that the head of a Department should

alter the laws of the land, and that he might at his will declare what part of the Indian system should be in force, and what part should be considered as repealed? Was it, for example, their determination that no treaties should be held with the Indians, however necessary they might have been, because the Secretary had thought proper to apply the whole of your appropriations to other objects? This never could have been their intention. Congress alone have the power of changing this system of policy. Whenever they think proper to do so, by unequivocal legislative acts, then, and not till then, does it become the duty of Executive officers to obey. They dare not sooner neglect to carry existing laws and treaties into effect.

Suppose the Secretary had thought proper materially to alter our policy towards the Indians, and the first information you had heard of the change was, as it probably would have been, the howl of savage warfare around your borders, and the shrieks of helpless women and children under the scalping-knife! could you then have justified his conduct? Would you then have told him that he had the power of altering the whole system, because a sufficient appropriation had not been made to keep it in motion till the end of the year? And this, too, when the very sentence before the appropriation of \$100,000 provided that \$130,205 44 should be drawn from the Treasury, to cover past arrearages in the Indian department? The legitimate meaning of a reduction in the appropriation was not to destroy any part of our policy towards the Indians, but to warn the Secretary to use the strictest economy in carrying every part of it into effect. It has produced that happy result. He has informed you that the expenses of the present year will not exceed \$150,000. This sum is upwards of \$85,000 less than, upon an average, was appropriated to the same purpose, in each year, from 1815 to 1820, both inclusive. It is but a few thousand dollars more than was expended for the use of the same department for each of the two last years of Mr. Jefferson. In the mean time our relations with the Indians have been greatly extended with our extending frontier, and we have become acquainted with tribes, of which before we had never even heard the names. This great curtailment of expense places the character of the present Secretary, in this particular, upon an exalted eminence; and the more so, as it is well known that not one cent more of money was expended by the administration of Mr. Jefferson than was necessary to accomplish its objects.

But suppose, for the sake of argument, that the Secretary ought to have inferred from your appropriation bill, that you intended he should change the Indian system, still, we should vote the \$70,000 to supply the deficit. If we do not, we require that he should have performed miracles.

This system has been in constant and in vigorous operation since 1802. For six years before the passage of the last appropriation bill, its average annual expense had been more than \$235,000. That bill did not pass until the 3d of March. Before that time, it has not been alleged that there had been a whisper of disapprobation against the

JANUARY, 1822.

Military Appropriations.

H. OF R.

former appropriations for the Indian department. On the contrary, during that period, \$200,000 at least had been appropriated every year; and, in addition, large deficiencies had been supplied without a murmur. The Secretary, acting under a firm conviction that the same system would be pursued, had taken the measures necessary to continue its motion for another year, some time before the passage of the bill. The places at which the money was principally to be expended, were agencies upon the borders of your vast empire, far beyond the utmost limits of civilization. The distance to many of them is so remote, and the communication so precarious, that the Secretary has informed you they cannot be heard from more than twice, and often but once, in the whole course of the year.

Could the motion of this vast machinery be at once suspended? In the beautiful language of the gentleman from South Carolina, (Mr. LOWNDES,) it had received its impulse before the passage of the bill, and the momentum could not be withdrawn from it in a shorter period of time than one year. To require the Secretary, therefore, to stop it immediately, would have been asking him to do that which was utterly impossible.

These, Mr. Chairman, are the remarks which I conceived it to be my duty to make on the subject now before the Committee. I have, personally, no feeling of partiality for the Secretary of War, nor of prejudice against him. I view him merely as a public character; and, in that capacity, I conscientiously believe, that, upon the present occasion, he has done his duty, and acted in the only manner in which he could constitutionally act. In my opinion, therefore, he deserves applause instead of censure.

One other view of the subject, Mr. Chairman, and I shall have done. In whatever light the conduct of the Secretary may appear, still the deficit ought to be supplied. This case does not require such an argument; but suppose, for a moment, he had acted improperly, is this one of those extreme cases—for, I admit, that such may possibly exist—in which the House should withhold an appropriation to supply a deficiency? Will any gentleman say, that individuals who have fairly and honestly entered into contracts with your Secretary of War, on the faith of the Government, shall suffer? Surely you would not impose the task on every person who binds himself by agreement, to perform services for the Government, to inquire whether the appropriation made by Congress justified his employment. If you did, he then becomes responsible—for what, in the nature of things, cannot be within his knowledge. To enable him to ascertain whether he might safely contract with the head of one of your Executive Departments, he should be informed not only of the amount of appropriations, but in what manner their expenditure has proceeded, and is proceeding, in every part of the Union. It would be crying injustice to inform the men who have abandoned civilized life, and undergone all the dangers, the hardships, and the privations of dwelling among savages in the wilderness, for the

purpose of promoting the interest and the glory of their country, that they shall receive no compensation for their services, because the Secretary who employed them has exceeded his appropriation. This would be making the innocent suffer instead of the guilty. If, therefore, there has been any impropriety in the conduct of the Secretary, as some gentlemen have insinuated, but which I utterly deny, it is a question which should be settled between you and him, and one in the decision of which the rights of the persons employed under his authority ought not to be involved. Indeed, no gentleman has yet said these men ought not to be paid out of the public Treasury. Why then, considering this question in every point of view in which it can be presented, is there any objection against voting \$70,000 to supply the deficiency in the appropriation of the last year? I hope it will pass without further difficulty.

Mr. SMITH, of Maryland, still thought that the appropriation should be extended as far as the amount proposed by the Committee of Ways and Means. Whatever specific information might be thought proper, could be required before the general appropriation bill should be passed. He agreed with the gentleman who had just sat down, on the questions of general policy that he had discussed, and although he agreed with the gentleman from Massachusetts, (Mr. DWIGHT,) in respect to the result to which they both proposed to arrive, he was very far from assenting to the correctness either of his statements or his arguments. He would premise, however, in reply to the suggestion that subsequent appropriations were not called for during the Administration of Washington and Adams, that the mystery was easily explained. In those times a gross sum was granted for the exigencies of Government. No specification was made. Of course no department was responsible for specific expenditure. Under the Administration of Mr. Jefferson a different and more correct course was adopted, and the departments were held responsible for the specific appropriation assigned to each. The gentleman from Massachusetts (Mr. DWIGHT) had said that the Committee of Ways and Means had struck at the root of the War Department. This was a heavy charge, and was doubtless expected to be met. He would explain the subject. The last year the Committee of Ways and Means called on the Secretary of War for information, and received it. But two members of that committee having personal knowledge on the subject of particular items of expenditure, and deeming them extravagant, it was thought proper to call on the Secretary for further and more particular information in relation to them, and in the meantime to report them in blank. It was done; but no information on the subject was received from the Secretary, and the committee, not deeming it expedient to recommend disbursements without explanation, left it, as the Secretary had left it, in blank. It was not filled up, and in this way the limited appropriation was accounted for. With respect to the letters which the gentleman from Massachusetts (Mr. DWIGHT) had introduced, he could say nothing

H. OF R.

Indian Department.

JANUARY, 1822.

about them. Information had been asked of the Secretary of War, but no such letters had been communicated to the Committee of Ways and Means. They appeared to be genuine, and showed that the Secretary of War had been mindful of his duty. So far he was entitled to praise. Rumor, however, had said various things—that an agent had travelled through the Indian country at great expense, &c., but how these things were, he could not say, for the Committee of Ways and Means had not been enlightened by the Secretary of War, although it appeared the gentleman (Mr. DWIGHT) had travelled all the way from Massachusetts to set us right on this subject. Mr. S. further went into an examination, and explained at length the subject of the \$30,000, his accuracy in relation to which had been questioned, and showed that, until lately, the expenditures for Indian treaties had come under the general appropriations, but were now, and particularly in relation to the Georgia treaty, specifically provided for. Mr. S. concluded, however, with the hope that the full sum would be granted, and that the discussion as to the correctness of the expenditure would be deferred until the general appropriation bill should be brought forward.

Mr. GILMER then moved to rise and report, with the view of obtaining the information sought for by the resolutions that had been adopted; which motion was agreed to, and the House adjourned.

THURSDAY, January 10.

Mr. RANKIN, from the Committee on the Public Lands, to whom the subject had been referred, reported a bill requiring surveyors general to give bond and security for the faithful disbursement of public money, and to limit their term of office; which bill was read twice, and committed to a Committee of the whole House to-morrow.

Mr. ARTHUR SMITH submitted the following resolution:

Resolved, That the committee to whom was referred the memorial of the United States Bank be instructed to inquire into the expediency of making it the condition on which any alteration of the charter for the benefit of the said bank shall be made, that the eighth clause of the fundamental articles of the constitution of said bank be so amended, as to limit the said bank in the contraction of debts, and the issue of its notes, to some multiple of the gold and silver coin of the lawful currency of the United States actually in its vaults or possession, and held to answer the demands against it; that the said committee also inquire into the expediency of providing, that the plea of the act of limitations shall not bar a recovery in an action brought on a note or notes issued by the Bank of the United States, and payable to bearer.

The resolution being read, the question was taken, Will the House agree thereto? and determined in the negative.

On motion of Mr. WOOD, the Committee on the Public Lands were instructed to inquire whether any, and, if any, what, alterations are necessary in the law relating to the survey and sale of the public lands; whether any, and, if any, what, provision is necessary relative to the moneys re-

ceivable in payment for the public lands; the place of deposite, or the mode and time of transmitting the same to the Treasury of the United States; and, also, to examine whether any, and, if any, what, losses have occurred in the revenue arising from the sale of the public lands; by what officers the same have been sustained; and, also, what further measures are necessary to secure the same.

On motion of Mr. BRECKENRIDGE, the Committee on the Judiciary were instructed to inquire into the expediency of holding, annually, one or more terms of the district court of the United States, for the Kentucky district, at Louisville.

Mr. WOODSON submitted the following joint resolution, viz:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring, That the following amendment to the Constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid to all intents and purposes, as part of the said Constitution, viz:

No person shall be eligible to the office of President of the United States, from and after the 4th day of March, 1826, who shall, or may, have held or exercised any other office of honor, profit, or trust, under the Government of the United States, or any of its departments, at any time within four years next preceding his election, nor unless he shall have attained to the age of forty-five years.

The resolution was ordered to lie on the table.

The SPEAKER laid before the House a letter in the French language, from M. Le Comte de Franclicu, of Senlis, in France, accompanied with a printed copy of an address, in the same language, from him to the Cortes of Portugal; which letter and address were ordered to lie on the table.

On motion of Mr. CAMBRELENG, the House proceeded to consider the resolution submitted by him yesterday, and the same being again read, was agreed to.

On motion of Mr. LEFTWICH, the report of the select committee appointed to inquire respecting certain loans of lead and gunpowder, by the Ordnance department, to certain individuals, made to this House on the 7th of February, 1821, was referred to the Committee on Military Affairs.

INDIAN DEPARTMENT.

Mr. PLUMER, of New Hampshire, called for the consideration of the resolution by him submitted on Wednesday last, calling for information from the War Department relative to the expenditures of the Indian department for the year 1821.

After some prefatory remarks by the mover, the House agreed to consider the same.

Mr. McDUFFIE hoped the resolution would pass. Had it been moved in its proper season, several days ago, it might have prevented the long discussion that had taken place.

Mr. TRACY wished to extend the inquiry more specifically than the motion seemed to embrace. He therefore proposed an amendment to that effect.

Mr. RANDOLPH did not rise for the purpose of

JANUARY, 1822.

Indian Department.

H. OF R.

objecting to the original motion of the gentleman from New Hampshire, nor to the amendment of the gentleman from New York; but to state to the House, what, in his opinion, was an obvious principle of legislation. There could be no objection on the part of the House, certainly there was none on his, to receiving any information which its subordinate departments might think proper to impart. Such information, however, was not requisite for him, in sustaining the part which he had deemed it his duty to take on the subject. It was incumbent on those who ask for an issue of money from the public purse, to show their reasons for the call. The onus was on them. Those who asked for the appropriation were to show cause why it should be done. It was enough for this House to remain passive until those who wanted their money had at least proven the exigence that gave birth to the solicitation. He was not disposed to cavil on the ninth part of a hair. He was no Hotspur. But when my constituents are asked for money—for 'tis their money, said Mr. R., not mine—it is not for me to belavish with it; nor was it their province to go in quest of the reasons that induce others to seek it.

Mr. RHEA moved a postponement; which was opposed by Mr. REID, and negatived.

The question was then taken on Mr. TRACY'S amendment, and carried.

Mr. WARFIELD was satisfied with the information already obtained, although he was willing that other gentlemen should be gratified who wished for further light. By reference, however, to what was already in our power, he thought it would appear that the information contemplated by the resolution could not be obtained in time for the partial appropriation bill to which it seemed to refer, unless the debate on that bill should be protracted until late in the Spring.

The subject was further discussed by Messrs. PLUMER, WALWORTH, and ARTHUR SMITH; when

Mr. RHEA remarked that he wished the inquiry to go further back. He did not wish for a partial examination of the subject, but for a full elucidation. This he thought was due to the Secretary of War; and he would therefore move to amend the resolution so as to extend the inquiry not only to 1821, but also to 1820.

Mr. GILMER hoped the amendment would succeed, though he was not himself desirous of the information called for by the resolution. Mr. G. proceeded to remark on the course which this subject had taken, and incidentally on the merits of the question which had been for several days under debate at considerable length—of which it is practicable to give the substance only. It seemed to him that some gentlemen were too eager to identify the personal character of the Secretary with questions before the House, and taking up their defence before any one thought of making an attack. In the particular cases before the House, Mr. G. confessed that the Secretary of War did not possess his confidence; though he believed him to be in the general discharge of his duty an able and enlightened officer; and he believed that officer drew much too largely on the confidence of this House,

if he presumed it would justify him in the course he had adopted in regard to the excess of expenditure above the appropriation. It had indeed been argued that an appropriation law is not the authority for expending money; he admitted that if an army is authorized, you give power to enlist so many soldiers; that if contracts cannot be made on terms as cheap as were anticipated when the law passed, it was competent for the Secretary to make up the deficiency, but this was not an analogous case, as those expenses were not authorized by any law. If any Secretary expended more money than he was authorized to do, it should be at his peril, and on his own responsibility. This was the great question; and he for one would not admit that any Secretary should dare—he would use this strong language—should dare to place his construction above the construction of this House, and substitute his discretion for law. Mr. G. contended further that it was in the power of the Secretary of War to have prevented a large portion of this unauthorized expenditure. It was well known that not only immense numbers of the Indians attended at the agencies to receive their annuities, but that they came attended by their women and children, who all assembled and remained for many days for the purpose of being fed at the expense of the United States. This expense at least the Secretary could have controlled—timely orders to his sub-agents would have prevented it, by directing that rations should not be issued to those swarms of savages at the public expense, as had been the practice heretofore. Such an order would have sent the Indians home, and the expense would have been avoided. Another curtailment of expenditure, Mr. G. presumed, might have been made in the article of presents. There was an existing statute which expressly forbid that the cost of presents to the Indian tribes should exceed fifteen thousand dollars—there was no discretion left in the case to the Executive; Mr. G. would always protest against the exercise of any discretion which should transcend the disbursement authorized. Suppose it should be discovered that the Secretary of War, in the great discretionary power contended for by some gentlemen, should have thought proper to expend for presents the sum of \$50,000, instead of \$15,000—and Mr. G. thought it highly probable that it would turn out so; for it had been stated by one gentleman, (Mr. BUCHANAN,) that \$40,000 was expended in transporting annuities, but this must certainly be an error, and he presumed it was for presents. Mr. G. was of opinion, also, that the expenditure for the Indian department might have been reduced in the supply of agricultural implements, ploughs, &c., which was furnished, and which he went on to show might have been reduced without producing any hardship or inconvenience to the tribes to whom they were sent; for, he observed, these implements benefited only that class amongst the Indians which were wealthy, and were calculated only to encourage an aristocracy amongst them; while the great body of the tribes, poor and miserable, and suffering, derived no good whatever from the donation. But these things were not

known perhaps to the Secretary of War, to this man of towering genius, to which so much homage was paid. Genius he might have, and had, Mr. G. said, but for his part, he would much prefer a little practical common sense to all the powers of imagination which had been ascribed to the Secretary of War. It was not his object, however, Mr. G. said, to assail or defend any Secretary—he spoke only of facts and principles. As to the resolution before the House, he had no idea that the information it called for would change his opinion on this subject. He was satisfied that money had been expended which was not authorized, and no confidence would induce him to justify such dereliction in a public officer—he would give no such confidence. The people, Mr. G. said, placed a special confidence in their representatives in matters of appropriation—it was unlike matters of ordinary legislation—and he had to learn that confidence was transferable.

Mr. RANDOLPH wished to know of the Chair whether, on this resolution, the merits of the question which had been under consideration for some days were debateable?

The SPEAKER thought not; but it was extremely difficult to determine the precise line of separation between the two subjects.

Mr. PLUMER had no objection to the amendment if the House desired additional information; though he himself did not.

Mr. RHEA's amendment was agreed to—ayes 89; and the resolution, as amended, passed without a count.

MILITARY APPROPRIATIONS.

The House then again resolved itself into a Committee of the Whole, on the bill making partial appropriations for the military service of the year 1822—the question on filling the blank for the Indian department being yet under consideration—

Mr. RANDOLPH remarked that, in opposing the appropriation now before the House, himself, and those who acted with him, had perhaps shown more gallantry than discretion. It was, perhaps, proper for him to vindicate the Administration with which he had the honor—for an honor it was, not indeed in the sense in which that term is bandied about in this House—to act. He regretted that so much personality had been introduced, not only in relation to the officers of the Government, but to the members of this House. There were two questions which the Committee had to decide, that, in his opinion, had not been met, probably because they had been misconceived. The first and most important question was, where does the supreme authority of this Government rest? Does it reside in agents or in sub-agents, or shall we find it in the subordinates of subordinates? He (Mr. R.) would not consent to admit that the War Department was a co-ordinate or correlative branch of this House. Should it be said that the Executive was such a branch, he would not deny it; but when we approach the Executive or Senate for information, it is in the respectful terms of request; when we speak to the subalterns of the

Executive, we order and direct—in language, civil if you please, but mandatory. The doctrine of these departments being co-ordinate branches of the Government was therefore unsound—it would not hold water a moment. And who is to be the judge, and what the measure of judgment? What is their power? It is derivative; they are the breath of the Executive nostrils. Mr. R. here adverted to the situation and limitation of the powers of former Secretaries, and was disposed to do more justice to the present Secretary of War than his friends seemed to have done. The old Spanish proverb, "Save me from my friends," &c. recurred to his mind; and he would not take the Secretary where he had been placed, and for the reason that he had not placed himself there. The Committee of Ways and Means had hard measure dealt out to them on both sides. They had tried to husband the public resources, and for this they were entitled to credit. They had taken the only course that could effect that object; and he could defy the ingenuity of gentlemen to limit the expenditure of the Indian department in any other manner than by limiting the appropriations. The same course was required as when you would teach frugality to a child at school. As you could not define every item of expense, the only and proper way would be, to limit by a precise sum the amount of his expenditure, beyond which he should not go. There was no other mode of retrenchment where the expenditure was contingent. This deficit, said Mr. R., comes before us in a most questionable shape. Last year the Secretary made his estimate at \$170,000. Only \$100,000 were appropriated, and now he comes in for the exact balance. Instead, therefore, of an appropriation, the application should rather be for the passage of a bill of indemnity to protect him from the consequences of having transcended the powers confided to him by the Representatives of the people. Such an act as was resorted to by Lord Chatham, in relation to his usurpations on the subject of the exportation of corn. Even that great man, who fills so large a space in the page of history, and whose name will be revered when those who now figure upon the scene of action shall be sunk, deeper than the plummet ever sounded, in the unfathomable abyss of oblivion, was obliged to seek shelter under a protecting act, for having been guilty of what he confessed to be a thirty days' tyranny.

The gentleman from Pennsylvania (Mr. BUCHANAN) had referred to the day, even the day, when he (Mr. R.) was a member of the Committee of Ways and Means, to show from the history of that period that then, even then, there was a necessity to supply the deficits of past appropriations. But, that gentleman would remember, it is one thing to know for what appropriations are made, and another thing to grant them without knowledge—in the dark. There was but one unaccounted deficit supplied, within his recollection, at the period alluded to, and that was for the naval expenditure, which, from the nature of the service, was most uncertain. But another prodigious discovery had been made by his colleague, (Mr. SMITH,) that

JANUARY, 1822.

Military Appropriations.

H. OF R.

\$100,000 had been granted for the civil list. But, though the appropriation was not specific on the face of the act, yet it was necessarily so in the progress of the disbursement. The salaries of the President, of the judges, and of the various officers of the Government, were limited and defined. There was no reason to fear that they would draw for larger amounts than they were entitled to. It was not like the Indian department, where the disbursement was contingent, and undefined by law. Did any one ever hear of a nation being ruined by the expenses of the civil list? This was really saving at the spigot and letting out at the two great vortices—the Army and the Navy. The gentleman from Virginia (Mr. SMYTH) had said hard things of the former Secretary of War, (General Dearborn,) and that his only memorable act was his sending the army to perish and die among the marshes of New Orleans. Now he would say, and he would say it without fear, that the Secretary of War was no more responsible for that act of the commanding General than the head of the Department in the late war was for any of the blunders of the commanding Generals on the Niagara frontier. [Mr. S. here called Mr. R. to order.] The chairman having requested Mr. R. to proceed, he rose and observed that neither his health, nor his fondness for debate, or rather his aversion to it, would permit him to extend his remarks to all the subjects that the question presented. But, so long as his constituents looked to him with so much partiality as to send him here to espouse their rights, he should raise his voice without fear against any principle that compromised those rights. The law, he said, had not authorized the expenditure, and he here read and commented upon the statute that authorizes the distribution of rations to the Indians. It was a guarded and qualified permission, not a peremptory requirement. The law of the land, therefore, stood violated, and its supreme authority was disregarded by an officer of the Government.

You may be Viceroys, it is true,
But we'll be Viceroys over you—

was now virtually the language held to this House. It could not excite surprise that he (Mr. R.) should enlist under the banner of the people. Although he had once a connexion with the Court, it was not long enough to estrange his feelings from their interest. His bias leaned to the payers of taxes, not to the consumers. Much had been said of dignity, but dignity had its seat in the mind. It might be found as often under a patched coat as under a flaunting robe, that might be borrowed or stolen. True dignity consists in acting well in that situation in which it has pleased God to place us; and in a Secretary of War it consists in not exceeding his appropriations. The gentleman from Pennsylvania (Mr. BUCHANAN) had said that he did not believe a single cent was unnecessarily expended during the administration of Mr. Jefferson. He (Mr. R.) could not go so far. There were too many hungry mouths to be filled under all administrations; too many dogs that were ready to eat dirty bread and dirty pudding. But,

in order to retain the confidence of the nation, a watchful guard should be placed over the people's money. Keep your money, and your money will keep you; but go to bed with confidence in your mouths, and you will awake with chains on your hands. We should not shun the law which requires scrutiny in the disbursement of public moneys; nor, when we do guard the Treasury, should we be put on our deliverance. If we are to be thus put, said Mr. R., I will say with the gentleman over the way, (Mr. FLOYD,) I am ready to go to Spain! The honorable gentleman from Virginia, (Mr. SMYTH,) under whose displeasure I have had the misfortune to fall, has spoken favorably of the employment of the troops in the pursuits of agriculture—that their swords, or the use of them, were converted into ploughshares. But I can remember, said Mr. R., when that very proposition was hooted out of the House. The soldiers were likened to the barrow-men of Philadelphia. Their stations and dignity were too high to be brought down to the business of making roads, as were the Roman legions. But they were not confined to making roads—they were sent up the Missouri as the bait to the trap for an Indian war. He had not seen an account of the missing in that war, nor the death-roll of the army sent to St. Augustine. Mr. R. expressed a hope that the dignity of the debate had not been interrupted by him. His life was in that state of obscurity—he would not say of proscription—in which it began. He could now see only two members of the House (Messrs. SMITH, of Maryland, and NEW,) who belonged to it at the time he entered that body. In alluding to the events, *quarum pars fui*, he could not but be astonished that in so short a space of time principles were received as matters of course, which transcended, beyond measure, those for which an administration of that day was put down, and, as he then thought, put down forever. He feared, from the past, that whoever succeeds will find the Constitution, like the horizon from the traveller, fly from before him; that he would find it flying before expediency and confidence. However the Republican party should be divided or subdivided, it would settle down into the parties of the Court and Country. For his part, the side of the people was his side. He was identified with them, and God forbid, said he, that we should causelessly throw away that money which they are perhaps at this moment laboring to earn.

Mr. BALDWIN was sorry the range of debate had been so wide and excursive; nor could he see the necessity that the transactions twenty years ago should be drawn into discussion with more propriety than the wise doubtings of Wouter Van Twiller, or the inflexible edicts of Peter the Headstrong. Mr. B. would fully concur with gentlemen in the propriety of making appropriations specific; but it seemed to have been forgotten that the specification must be made in this House. The departments were not entitled to make it; and no information until yesterday had been asked of the Secretary of War. In 1820 there was laid upon our tables a detailed statement of the whole

H. OF R.

Military Appropriations.

JANUARY, 1822.

system of policy and expenditure in the Indian Department for a long series of years. That information was to be considered as before the House, and at the last Congress no objection was made to the system. The appropriation of the last year did not apply to the policy of the Indian Department. The bill came in blank, and he did not remember to have heard even an intimation that it was intended to cut down any part of the Indian expenditure. [Mr. SMITH explained, and said the estimate was \$170,000, and he had moved to fill the blank with \$100,000 only.] This appropriation, said Mr. B., was passed in silence; not so, that which related to the fortifications. The extent and policy of that expenditure was tested by discussion and by vote. Mr. B. was as little disposed as others to grant away the public money. But what was more common than that committees should be mistaken in their estimates? It happened almost every year—but an error of that kind had never before, as he believed, been construed into an indication that the source of expenditure was to be destroyed. Mr. B. thought the Secretary of War could not be said to have disobeyed the direction of the House. He had never been called upon to apportion the \$100,000. That would be an act which he had no right or power to assume. If Congress directs that presents shall cease, rations be discontinued, or the agents, interpreters, &c., remain unpaid, it would be the duty of the War Department to obey the mandate; but to limit and apportion to each, or to continue one and discontinue another, when the laws were in force that required them all, would certainly be a departure from his duty. By voting the sum now proposed, the Department would not be exonerated from responsibility of subsequently accounting for it. The public would, therefore, be safe, and he thought it unwise to depart at this time from a practice which had uniformly obtained for forty years, without setting up a buoy, to warn the Department of the course which was prescribed for it to take.

Mr. TON rose to explain his reasons for voting in favor of the sum that had been named by the Committee of Ways and Means. He was induced to do this from the circumstance that other gentlemen on that committee had thought proper to explain the reasons that would influence them to vote against it. Mr. T. passed in review the general topics that had arisen in the course of the debate; but the difficulty of hearing precludes a full and extended report of his observations. He thought it somewhat singular that, with one solitary exception, every gentleman who had resisted the report had expressed an entire confidence in the gentleman who directs the War Department. They are convinced that he has done his duty, and are solicitous to make him an appropriation of thirty thousand dollars, and that, too, founded on the same data and principles with the appropriation which they oppose. In other words, they are dissatisfied with his past conduct, and therefore insist upon trusting him in future; they would trust in his promises and estimates, but not in his facts! A great anxiety seemed to exist for ac-

counts current—for proofs and papers. He doubted, however, whether this House was a very proper place to audit the Secretary's accounts. The Third Auditor's apartment was most appropriate for that business, where papers were measured by the cord. If those papers were even brought forward, he doubted whether they would lead to a very beneficial result. For his part, he did not wish to overhaul papers, and hunt up receipts, for half a pound of tobacco, yard of wampum, or a pair of nippers, furnished to an Indian. There were officers who were more competent to perform this drudgery, and who would probably do more justice to the subject than this House in their representative capacity. Mr. T. adverted, also, to the consequences that might arise from withholding the Indian supplies, and contended that to make the appropriation was called for as much by the dictates of policy as of justice and honor.

Mr. STEVENSON moved to rise and report, and intimated his intention to make some remarks on the subject.

Mr. SMYTH begged the indulgence of the House to make a few observations in relation to some points of the debate. If any thing of a personal character, or derogatory to the dignity of the House had occurred, the House would bear him witness that it had not fallen from him. Mr. S. read a part of the rules of the House, that related to personal allusions, and remarked that it was always unpleasant to speak of one's self, and, more especially, under any degree of irritation; but he could not forbear to give a short answer to the law which had been referred to by his colleague, (Mr. RANDOLPH,) as limiting the rations, such as could be spared. The extent of the rations to be dealt out, was, indeed, in some degree, a matter of discretion—unless usage had given it a measure—but the obligation to furnish them was still in force and unrepealed. The Secretary of War had no right to refuse them. The gentleman says the act of sending the Army to perish among the marshes that surround New Orleans, is to be ascribed to President Jefferson. If so, why should not the expenditure of the Indian department, in like manner, be ascribed to the present Executive? The fact is, that the President of the United States commits these things to the heads of the Departments, and they are responsible for their own acts. Mr. S. could not believe that his colleague intended to apply that to him, in relation to the proceedings on the Niagara frontier, which he repelled as a calumny. But this he would assure both that gentleman and the House, that no reflection, however personal, should prevent him from the performance of his duty. It had been undertaken, and should be performed, whatever might be the consequence. Mr. S. referred to two appropriations that were made to cover deficits at the time when his colleague contended that they were made upon account rendered. One was made in December, and the other in the January following—and both for the same object, which showed that the accounts or estimates could not have been rendered when the first was made—otherwise it would have been made sufficiently large to have pre-

JANUARY, 1822.

Soldiers' Rations.

H. OF R.

vented the necessity of the second. His colleague had said that he was of the party of the people. So, also, am I, said Mr. S., I belong not to the Court; and when will it be found that I was ever wanting in my duty to the cause of the people? I have an interest in the people, and in posterity. There are those to whom my existence is important—but even that existence shall never stand in the way of my duty.

The question was then taken on Mr. STEVENSON's motion to rise and report, and carried; and the House adjourned.

FRIDAY, January 11.

Mr. NEWTON presented a memorial of sundry inhabitants of the borough of Norfolk, in the State of Virginia, stating that, in the opinion of the memorialists, the operations of the act concerning navigation, passed on the 18th of April, 1818, and the act supplementary thereto, passed the 15th of May, 1820, by which British vessels are prohibited from bringing the productions of the British colonies into the ports of the United States, and taking away those of our country in return, are highly injurious to them, destroying their commerce, and are in opposition to the best interests of the United States, while at the same time they are contrary to the true policy of the Government, operating unequally upon different sections of the Union; that they burden the products of agriculture in a fruitless attempt to promote the shipping interest, diminish the revenue, and threaten, in the end, to produce many great and lasting evils to the nation at large; and praying that the said acts may be repealed; which memorial was referred to the Committee of Commerce.

Mr. WILLIAMS, from the Committee of Claims, also made a report on the petition of Noel Destrehan, representative of Edward McCarty, deceased, accompanied by a bill for the relief of the heirs of the said McCarty; which bill was read twice, and committed to the Committee of the Whole.

Mr. BATEMAN laid before the House a copy of certain resolutions adopted unanimously by the General Assembly of the State of New Jersey, recommending an equitable appropriation of a portion of the public lands to the purposes of education, in those States who have not yet received such an appropriation, upon the principles of certain resolutions passed by the General Assembly of the State of Maryland, and submitted to this House at the last session of Congress. The resolutions were laid on the table.

On motion of Mr. SMITH, of Maryland, the Committee of Ways and Means were instructed to inquire into the propriety of making an appropriation authorizing the Secretary of the Treasury to refund the amount paid for postage, by the marshals who were employed in taking the late census.

Mr. CONDUCT submitted for consideration the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the decision of territorial or other contro-

versies between the States, in such manner as is authorized by the Constitution of the United States.

Mr. CONDUCT stated the grounds of his motion, the principal one of which was the unpleasant controversy which has for some time existed between the States of New York and New Jersey, on the subject of their respective boundaries.

The resolution was agreed to without opposition or debate.

On motion of Mr. COOK, the Committee on the Public Lands were instructed to inquire whether any, and, if any, what provision is proper to be made, to provide for the prompt satisfaction of claims for military bounty land held by the soldiers of the late war against the United States.

Mr. EUSTIS offered for consideration the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of making an appropriation at the present session on account of the clothing of the Army for the year 1823.

In support of this motion, Mr. E. made some observations, the object of which was to show, that some measure was necessary to enable the small manufacturing establishments to contract with the Government for cloth for the Army, which, under present regulations, he said, they could not do, from its being required too promptly and in too large quantities for their scale of operation, &c.—which made prospective contracts advisable. The motion was agreed to.

On motion of Mr. SLOAN, the Committee on the Public Lands were instructed to inquire into the expediency of extending the provisions of the act, entitled "An act for the relief of the purchasers of public lands prior to the 1st day of July, 1820," to the purchasers of town and out lots, and other tracts of less quantity than one hundred and sixty acres.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to establish the district of Blakeley;" in which bill they ask the concurrence of this House.

The bill was twice read and referred to the Committee of Commerce.

The Committee of the Whole to which is committed the bill for the relief of certain purchasers of public lands were discharged from the consideration thereof, and it was recommitted to the Committee on the Public Lands.

SOLDIERS' RATIONS.

The House then proceeded to the consideration of a resolution, submitted some time ago, by Mr. WALWORTH, directing the Committee on Military Affairs to inquire into the expediency of changing the component parts of the ration to the soldiers, so as to omit or to reduce the quantity of spirituous liquors it contains.

Mr. WALWORTH made a few remarks in support of his proposition. The proportions of the ration, he said, were established by law; and, although the President was by law authorized to change the component parts of the ration, he was not authorized to make any but a general change in it. Now, Mr. W. said, a change might be ne-

cessary at the Northern extremity of the Union, and not the Southern; but, under the law, such a change could not be made. The effect of the general commixture of spirituous liquors in the ration of the soldier, he represented to be very prejudicial to the service; so much so that reports had been made by various officers deprecating the system as now established and practised. Under its operation, a young man who goes into the Army with sober and steady habits becomes in time almost necessarily intemperate. At times the use of spirituous liquors might be necessary to the health of the soldier—when on fatigue duty, &c. But Mr. W. thought there ought to be a discretion vested in the officers commanding to give or withhold it—a discretion which they could not now exercise without violating the law of the country. If the officer was thus situated, the soldier too was left without the option of accepting or refusing the component part of the ration. He was surrounded, on its being offered to him, by veterans in the art and practice of drinking, and, by scoffs and jeers, and even by force, compelled to take the cup. He thus was put in the way to become an habitual drunkard; every finer feeling of his mind being destroyed, &c. It was worth while to inquire, at least, whether this evil could not be remedied.

The question was then taken on the resolution, and it was agreed to without a division.

MILITARY APPROPRIATIONS.

The order of the day being announced—

Mr. BUTLER moved to postpone to Tuesday the further consideration of the bill for making partial appropriations for the support of the Army, &c., for the year 1822. The reasons he assigned for this motion were, that resolutions had been passed calling upon the Secretary of War for certain information, the want of which had given rise to a great deal of debate, and occasioned an unnecessary consumption of time. It was no offence to the officer in question to have asked of him for further information. Let it be received, said he; doubtless the Secretary can fully justify his course. It is very probable that he made every effort within his power to bring the expenditure within the appropriation, and would prove it by the facts which are to be reported to the House. The debate, Mr. B. said, had involved the genius and character of that officer rather than the merits of the question before the House; and all difficulty respecting it might have been prevented by having the information first, and debating the subject afterwards. He could not see any benefit that could arise from pressing a further discussion at this moment, and therefore wished postponement, &c.

Mr. GOLDEN supported the motion for postponement, because the further discussion of it at present could tend to no beneficial purpose. With regard to the debate which had already taken place, Mr. C. said, if any one had heard it without knowing the subject, he might have supposed the House was sitting in caucus on the subject of the Presidential election, discussing the merits of the candidates. The whole and sole point of controversy for several days had been, whether the

Secretary of War had given to the House such information as will authorize it, in the exercise of a sound discretion, in voting the appropriation which has been asked. If this were the true point, what need for travelling over our history, &c., and taking so wide a range in this debate? No member had questioned, during these ten days' debate, whether it was in the power of Congress to make an appropriation of this nature; the only question had been as to the proof of its necessity. Such being the case, and the information being now called for, why discuss it further until that information was received? If in all this business there was any fault—he used the word in no invidious or unfriendly sense—it was in the organ of this House. If there was a defect of information, the Committee of Finance, he apprehended, rather than the Secretary of War, had committed it. The committees of the House, Mr. C. said, are supposed to hold direct communication with the heads of departments, and to be the medium of communication between them and this House. It was for this purpose, he understood, that the Committee of Ways and Means had been constituted. If that committee had not been satisfied of the propriety of passing the bill now before the Committee of the Whole, it was to be presumed they would not have reported it. But that Committee had not given such information on the subject as appeared to satisfy the House. The Secretary of War, however, had shown every disposition to afford the House all the information in his power, and if this bill were postponed, he presumed the House would by Tuesday receive the information for which it had asked.

Mr. BUCHANAN was opposed to this postponement. For what purpose, he asked, was the subject to be postponed? It was said, to acquire additional information. What information, said he, have you already? You have precise information from the Secretary of War as to all the objects of the expenditure, and he has told you that it is impossible to give you vouchers showing the special manner in which every sum of expenditure is applied. This, it would occur to every one, would be utterly impossible, because, unless the Secretary was more fortunate than anybody else, he could not have vouchers and receipts for the expenditure, before the expenditure was made. In a general view, then, the House had all the information which could be expected; and it could not have it in detail until the information was obtained by the Secretary. Mr. B. said he was opposed to the postponement for the further reason—that, as the gentlemen on his side of the House had occupied the floor more than those who were opposed to them, and an honorable member from Virginia had been expected to address the House this morning, he (Mr. B.) was for extending to him the same liberality which had been accorded to others. He wanted for himself no further information; and he thought, also, that courtesy ought to induce the House now to go on with the discussion of the bill.

Mr. CAMBRELENG was not so entirely satisfied with the information before the House as the gen-

JANUARY, 1822.

Military Appropriations.

H. OF R.

tleman from Pennsylvania appeared to be. He was persuaded that the Secretary of War was able, and perfectly disposed, to give other information which might be acceptable. It would, he thought, be decorous in this House to itself as well as to the Secretary of War, to postpone this question until he should lay before the House the information called for by its resolutions.

Mr. SMITH, of Maryland, reviewed the course which the bill now before the Committee of the Whole had taken in the Committee of Ways and Means. No mention had been made, he said, to the Committee of Ways and Means by the Secretary of War, of any deficit in the Indian department for the last year. They, therefore, could not be prepared to give information respecting it.

[Here Mr. SPEAKER called the attention of the House to the question, which was no more than a question of postponement, and admitted, according to the practice of the House, of no discussion on the merits of the subject proposed to be postponed. During the whole of to-day's proceeding, the Speaker endeavored to keep gentlemen within the rule, but apparently in vain.]

Mr. SMITH, however, submitted to the decision of the Chair, saying, as he sat down, that he had supposed the gentleman from New York (Mr. COLDEN) would have been obliged to him to set him right as to facts.

Mr. LITTLE thought there was sufficient information on the subject already before the House, and he was opposed to the postponement, because time would be saved, as he thought, by going on with the discussion. If he thought, indeed, that it would shorten the discussion, he would agree to a postponement for any reasonable time. But, he said, the House was bound to proceed; the faith of the nation was pledged for these expenditures, and the persons having claims on the Government on account of them were suffering by this delay.

Mr. BURROWS hoped the motion for postponement would not prevail, and one reason why he was opposed to it was, that he had no doubt the postponement, if it prevailed, would be a means, peradventure, of protracting the argument to a greater length of time than what had been already occupied. For himself he was as well prepared to vote on this question three or four days ago, before all the able arguments which they had heard, as he was now. Gentlemen were bound, he said, to pay attention to the questions before the House, and bring them to as speedy a conclusion as was consistent with existing circumstances. This subject had already occupied several days, and he could see no reason why there should be a further postponement, with a view either to give a chance for, or to prevent, further debate.

Mr. WALWORTH was opposed to further delay of a decision on this question. He recapitulated the several Indian agencies, and described their locations. These agencies, he said, were established by law, the compensation of the agents was fixed in the same manner, and the Executive had no discretion to appoint them or not, or in regard to their compensation. Neither had it any author-

ity to reduce their number, or reduce their compensation, without authority of law. To refuse this appropriation, he argued, would be to subject the frontier to all the horrors of Indian warfare; and he made a glowing appeal to our Western brethren, whose blood had freely flowed in conflict with the Indians—to those whose countrymen's scalps had been displayed as trophies in the States of a neighboring (he had almost said of a savage) Power, whether it would not be better to preserve peace with the Indians than to fight them. Many of the posts among the Indians, he said, were in a savage country, where there were no roads, and it would take some time to send supplies there; the consequence of which was, that much of the expenditure for the year must be incurred before the general appropriation bill could pass. Partial appropriations were therefore unavoidable, &c.

Mr. NELSON, of Maryland, opposed the motion. In his view the information was not only insufficient, but there was really none before the House on which they could understandingly act. He could not consent to make a grant of the public money without more knowledge than had hitherto been afforded. He wished it to be clearly shown in what way the Secretary of War could vindicate himself for having transcended the appropriation of the last year. He was not disposed to require impossibilities of that officer, but, if he had substituted his own discretion for the Constitutional measure of supply, he was altogether indisposed to sustain the proceeding.

Mr. McDUFFIE arose, with the view of expressing to the House his desire that no information might be withheld, which any respectable portion of the House should desire to receive. In the remarks which he had made the other day, he had said that, if gentlemen wished for information, and would ask for it, they would unquestionably receive it. Had that course been then adopted, as it ought to have been, the necessity for this debate would have been superseded; and he had only to express his surprise how gentlemen could justify a debate so long, on the ground of a want of information, which they could have got, but did not ask for it. For himself he was satisfied, and he believed a great majority of the House was, but he was desirous that no information should be withheld. When the House should have received the information, he said, he believed that no man, viewing the subject as it would then be seen, would open his mouth against the appropriation. We have all of us already, said he, incurred a heavy responsibility, by the time which we have consumed in this discussion.

Mr. FLOYD was always willing to encounter responsibility; but he was glad to hear that the Secretary of War was willing to condescend so far as to impart the information which this House should require from him. He could not say, however, that it would be valuable to the House after it was obtained; for, if he had understood the gentleman (Mr. McDUFFIE) the other day, he told us that we should not be able to understand it if it were obtained. [Here Mr. McD. rose to explain, but the floor was not yielded.] Perhaps his (Mr.

H. OF R.

Apportionment of Representatives.

JANUARY, 1822.

F.'s) mind was so angular, that it could not comprehend the complexity of the communications from the Departments. He was ready to vote for the appropriation when the accounts were shown that could support it. He had heard no imputation upon the Secretary of War, except from those who seemed to consider themselves as his advocates. Yet it was singular that when Indians and agents had come from a vast distance, and visited our galleries—when a delegate from Michigan, on our extreme border, had come here in sixteen days from Detroit, that the accounts of expenditure should require such a vast length of time in their transmission. The vouchers of the disbursement ought to travel with an expedition equal to that of the drafts for the money. He would not doubt that the expenditure had been fair, but he had a right to demand the evidence of it. He was glad to hear from the friends of the Secretary that the information might be had if asked for, but he felt some degradation that it was deemed necessary by gentlemen to give that assurance where the House had a right to demand it. He had too much confidence in the Secretary of War to suppose he desired to withhold it; and Mr. F. said he had no doubt the money was expended according to the Secretary's best ideas of propriety; but, he repeated, he wished to know how it was expended, and he would not be satisfied without this information.

Mr. STEVENSON observed that, although the Committee had yesterday agreed to rise and report on his suggestion, yet he was disposed to waive the right which the politeness of the House had given him, in favor of the motion now before that body. The reasons assigned by the gentleman from Maryland (Mr. NELSON) were sufficient, in his mind, to evince the expediency of postponement. He wished for information on the subject, not partially, but to its full extent. While, on the one hand, we hear that the conduct of the distinguished gentleman who fills the office of Secretary of War with so much honor, has been arraigned, and that his reputation is involved in the issue of this question, when, on the other, we are told that it is a matter of etiquette; and again, when it is said that the system of policy in the Indian department is in question, among this discordance of opinion it must surely be important to pause and reflect, and to obtain all that information on the subject which it is in our power to collect. Admitting that it was not important in its beginning, yet it has certainly become so by the course which the discussion has taken, and he fully agreed with his colleague that it was a question, not as between co-ordinate powers, but between a subordinate department and the people who created it. Yet he would not say, nor would he be understood to insinuate, that the Secretary of War had not acted with integrity and justice. I am not disposed, said Mr. S., to cloud the lustre of his reputation, nor pluck a leaf from the wreath with which intelligence and genius have adorned his brow. I would as soon demolish the altar where I worship. I admire and appreciate the qualities of a young man who gives us the fairest promise of filling at some time the highest councils of his country.

His reputation I regard as the common property of his country, and I wish not to thicken, but to disperse the obscurities that surround him, and which now hang like the petty mists which fret themselves at the base of a mighty mountain. Mr. S. would trouble the House with but one further remark. You have, by a resolution, called upon the Secretary of the War Department for information on this very subject. The resolution has gone forth. It is probably under consideration, and perhaps an answer is preparing to this formal requisition of the House. He would submit it, then, whether it would be proper or decorous to call for information, and in the mean time to decide the question to which the information refers, before time has been given the Department to furnish it.

Mr. GILMER was understood to believe that, by referring to the abstracts of expenditure in the Department of War for the years 1818 and 1819, the House would probably see the necessity of exploring further into the subject. The amount limited by law for presents to Indians was \$15,000; but it would be found that, in 1818, there were distributed in presents to them the sum of \$130,000 in money, and \$165,000 in goods, making an aggregate of \$285,000. If there was such a palpable excess beyond the provisions of the law in that year, he thought it highly proper to obtain information how great was the excess for the last year.

Mr. SMITH would withdraw his opposition to the motion, for so much time had been already consumed in discussing it, (it being nearly three o'clock,) that there was no time left to enter into a discussion of the main subject, if they took it up.

Mr. JONES, of Tennessee, made a few remarks in opposition to the postponement, when the question was taken and carried—ayes 89.

APPORTIONMENT OF REPRESENTATIVES.

On motion of Mr. CAMPBELL, of Ohio, the House agreed to take up the consideration of the bill relative to the apportionment of Representatives in Congress, under the census of 1820, and thereupon resolved itself into a Committee of the Whole on that subject.

Mr. C. moved to strike out the word "forty," and to insert in lieu thereof the words "forty-two," so as to make forty-two thousand inhabitants the ratio of future representation.

Mr. McSHERRY proposed to divide the question, so as to decide first upon the question of striking out; which was agreed to, and the motion prevailed.

Mr. LOWNDES adverted to the situation of South Carolina, in relation to the subject before the House. It was known that the returns of the census of Kershaw district had not been made. It was desirable that a full and equitable apportionment should take place, and, with every disposition to consult the convenience of other States, he felt it his duty to move that the Committee rise and report, for the purpose of giving time for the returns to be made of that district.

Mr. CAMPBELL was reluctant to oppose the wishes of the gentleman from South Carolina,

JANUARY, 1822.

Public Lands for Education.

H. OF R.

(Mr. LOWNDES,) who was so much distinguished for his comity in relation to others. Yet he thought it would be proper to take the subject into consideration, and agree on the ratio, after which it could be laid on the table a few days, to give time for the returns of the Kershaw district. It was certainly important to have the matter disposed of as soon as practicable, to enable the State Legislatures now in session to lay off their new Congressional districts, without the trouble and expense of extra sessions for that particular purpose.

Mr. LOWNDES said that he could not press his motion, after the liberal proposition which the gentleman from Ohio had made. He, therefore, withdrew it.

Mr. H. NELSON renewed the motion, on the ground that they had had their attention directed of late to other subjects than the one now before the House. They had not turned their attention to it, and he wished for time to consider and examine it.

Mr. HILL opposed the motion, on the ground of the necessity that existed to determine the question before the State Legislatures now in session should rise.

Mr. MOORE, of Alabama, supported the motion, and stated that there were fifteen thousand inhabitants of Alabama who had been omitted in the returns of the recent census.

The question was then taken, and carried.

In the House, the subject of the apportionment was, on motion of Mr. CAMPBELL, made the order of the day for Tuesday next.

MONDAY, January 14.

Mr. COLDEN presented a memorial of the New York County Agricultural Society, in the State of New York, praying that all seeds which may be imported for the improvement of the agricultural and horticultural interests of the country may be admitted to entry free of duty; which memorial was referred to the Committee on Agriculture.

Mr. RHEA presented a memorial of the seventh convention of the Manumission Society of Tennessee, praying that provision may be made, whereby all slaves which may hereafter be born in the District of Columbia shall be free at a certain period of their lives, and that Congress will give every facility in their power to effect a final abolition of the system of African slavery within the United States; which memorial was referred to the Committee on the Judiciary.

Mr. RANKIN, from the Committee on the Public Lands, to whom the subject has been referred, reported a bill to authorize the State of Illinois to open a canal through the public lands, to connect the Illinois river and Lake Michigan; which was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMS, from the Committee of Claims, made a report unfavorable to the memorial of the Legislature of the State of Tennessee, asking that provision may be made to pay for horses lost by her citizens in the expedition during the Seminole war; which report was read, and referred to a

Committee of the Whole, and, with the memorial of the Legislature, and documents accompanying the same, were ordered to be printed.

Mr. SERGEANT, from the Committee on the Judiciary, to whom the subject has been referred, reported a bill to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory; which was read twice, and committed to a Committee of the Whole to-morrow.

The Committee of Revisal and Unfinished Business who were instructed, by a resolution on the 8th instant, to inquire into the necessity of renewing an act granting the assent of Congress to certain acts of South Carolina, authorizing the City Council of Charleston to collect a duty on vessels from foreign ports, and to acts of the State of Georgia for the collection of the duty on vessels entering the ports of Savannah and St. Mary's, were discharged from the said inquiry, and that the same be made by the Committee of Commerce.

Mr. EUSTIS, from the Committee on Military Affairs, reported a bill for the relief of William E. Meek; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. STEVENSON, the Committee of Commerce were instructed to inquire into the expediency of so amending the law establishing a collection district at Richmond, in the State of Virginia, as to cause said district to include all the waters, &c., from the mouth of Chickahomony river up to the mouth of Appomattox river, or its junction with James river.

Among the petitions this day presented was a memorial, by Mr. GRAHAM, from sundry inhabitants of Boston, adverse to the establishment of an uniform system of bankruptcy; and one from New York, by Mr. COLDEN, also adverse to it; which were referred to a Committee of the Whole on that subject.

In presenting this memorial, Mr. COLDEN said, that it was from one hundred and sixty-one respectable merchants and inhabitants of the first and second wards of the city of New York; that it objected to a number of the provisions of the bill on the table of the House, and expressed the apprehensions of the memorialists that no law could be passed which would relieve the debtor without exposing the creditor to frauds; that, though he would not now ask for the reading of the memorial, he should, lest he should not have done justice to its contents, claim that indulgence when the bill should be under consideration in the Committee of the Whole.

LANDS FOR EDUCATION.

Mr. NELSON, of Maryland, after adverting to the importance of the subject of the motion which he had laid on the table some days ago, proposing the appointment of a committee to consider the expediency of making appropriations of public lands for the purposes of education in the old States, and to the fact that it had received the approbation of several States, and therefore was entitled to the serious attention of this House,

moved that the House should now proceed to the consideration of that motion.

The House agreed to consider it.

Mr. WOODSON, then, with a view to disembarass the question, and suffer the subject of Mr. NELSON's motion to be presented in an isolated shape, *withdrew* the amendment which he had proposed to that resolution when it was originally presented to the House.

Mr. CAMPBELL then moved to refer the subject to the standing Committee on Public Lands, instead of a select committee.

Mr. WRIGHT opposed the motion. The Committee on Public Lands, he said, was necessarily occupied in a variety of other important subjects, and would not be able to give to this subject all that attention which its intrinsic importance, and the courtesy due to the State from which it emanated, gave reason to its friends to expect. Mr. W. alluded to the practice of the British Parliament, where it was usual, in all cases like the present, to refer the subject to a committee supposed to be friendly to the proposition, in order that its strength and bearing might be fairly and fully presented.

Mr. CAMPBELL, of Ohio, was in favor of a reference of all subjects of this sort to standing committees, when, from their nature, they came within the scope of those duties that were properly assigned to them. As a general rule, the business, when so referred, was more promptly attended to than when referred to special committees. He thought the matter in question came properly within the province of the Committee on Public Lands, and having great confidence in that committee, he felt unwilling to take from their cognizance a subject that seemed to fall appropriately under their jurisdiction.

Mr. LITTLE thought the subject-matter of the resolution had nothing to do with those things that were immediately within the province of the Committee on Public Lands. The resolution was of a distinct and novel character; nor had it any thing to do with the location of the public lands. He also concurred with his colleague (Mr. WRIGHT) in the opinion that it was a matter which required the undivided attention of the committee to whom it should be referred, which could not be expected from the Committee on Public Lands, consistently with the performance of the other duties that were assigned them.

Mr. TOMLINSON would not oppose the reference to a standing committee of any subject that came within its legitimate province. This resolution, however, did not, in his opinion, properly come before it; it contained a distinct proposition; it was a subject of no ordinary magnitude, and had received not only the support of the respectable State of Maryland, but the approbation of the State which he (Mr. T.) had the honor in part to represent. He thought it was due to those constituent powers of the Union, as a matter of courtesy, no less than of right, to give the subject such a consideration as should be regarded as something more than a mere formal go-by of their solicitations. Parliamentary usage also had uni-

formly dictated the course of referring subjects of this nature to committees, a majority of whom should be favorable to its object, so that it might be presented to the House in its most favorable aspect. He, therefore, hoped the motion of the gentleman from Ohio (Mr. C.) would not prevail.

Mr. WRIGHT replied to the remarks of Mr. CAMPBELL.

Mr. WOODSON, of Kentucky, observed, that his limited experience in legislation had induced him, in the general, to believe it proper to refer the different subjects submitted for consideration to the appropriate standing committees. Yet this case seemed to him to demand an exception to that general rule.

It is, said he, a subject of great interest, involving national education, which has engaged the attention of the different States in the Union, and upon which the people, through their Representatives, in the State Legislatures, have respectfully presented their views; and a majority, he believed, had asserted their relative rights, in the form of deliberate legislative resolutions and remonstrances. And shall we, said he, upon a question deserving such importance, not only from its character, but the manner in which it is presented, refuse that courtesy to the States which is frequently extended to individuals? He trusted not.

Indeed, it has assumed the dignified attitude of a right or claim, on the part of the old States; and it might, with equal propriety, be contended that it ought to be referred to the Committee of Claims.

He had the fullest confidence in the talents and integrity of the Committee on Public Lands, but believed that they were hostile to the measure. They were generally selected from the new States, and he felt himself justified in saying, that Parliamentary usage required a submission of a proposition to a committee composed of its friends, not its enemies.

He hoped it would be referred to a select committee, and that its merits might be promptly brought before the House.

Mr. ROSS was in favor of the motion. He read from the rules of the House the specification of duties assigned to the Committee on the Public Lands, and contended that the subject-matter of this resolution came distinctly within the rule. He also thought the committee was as well acquainted with all subjects in which the public lands could be drawn into question, as any select committee could be. Besides, how did gentlemen know but that committee were favorable to the resolution offered by the gentleman from Maryland, (Mr. NELSON.) He thought it was a presumption unwarranted by any facts before the House, to suppose that committee was hostile to the proposition.

Mr. HARDIN made a few remarks in support of the motion—but they were not heard with sufficient distinctness and certainty to warrant a report of them.

Mr. NELSON, of Maryland, observed, that it was to be presumed that, when great national subjects were brought forward, other members

JANUARY, 1822.

Public Lands for Education.

H. OF R.

than those composing the Committee on Public Lands would know something on the subject. He felt no personal objection to the individual members of that committee; but it was desirable that such a subject should be referred to a committee who could not be supposed to be affected by preconceived opinions; and it was known that five out of that number were Representatives from States who were directly opposed in interest to the objects of the resolution. This was a question of policy and power, and he thought it came quite as properly within the sphere of the Committee of Ways and Means, as of the Public Lands, to which it was proposed to refer it.

Mr. ARCHER was disposed to accede to the appointment of a select committee. It was for the Committee of the Public Lands to see and advise what lands were disposable, if the principle were settled by Congress that a given quantity be disposed of. This subject now occupied a large space in the public eye, and, he thought, a question involving the highest principles of the constitution of our Government, and of the interest and power of the nation, should not be in any way withdrawn from the most full and deliberate examination. In refusing to commit it to its friends, he thought one of the first principles of legislation was violated; and he also wished that a committee more numerous than that which composes the Committee on the Public Lands should be appointed, to consist of one member from each State.

Mr. RANKIN thought this was the first time that the private sentiments of a standing committee were ever, within his knowledge, made the subject of an inquiry on a motion of this sort. If it was a proper subject-matter for the Committee on the Public Lands, he thought it ought to be referred to that committee, and he, as a member of it, would say that its attention would and should be drawn immediately to the consideration of it. It might be convenient, on many occasions, to have committees appointed on applications that were friendly to their adoption. Such would be peculiarly the case with regard to the Committee on Claims; but those cases in which such commitments were made, were excepted from the ordinary classes, and where special committees were rendered proper by their peculiar circumstances.

The question was then taken on Mr. CAMPBELL's motion and negative—ayes 57, nays 89.

Mr. COOK moved to amend the resolution, by inserting after the word "States," the following words: "And, also, of making a similar appropriation for the support of a National University in the District of Columbia."

Mr. C. remarked, in support of the amendment, that he thought it was an object of national concern to encourage learning in the District of Columbia—not merely for the purpose of extending the empire of intellect, but also, to diffuse a national character. The establishment of an University at the Seat of Government had been an object of great solicitude with all the successive Presidents of the United States, and whose sentiments must carry with them great weight and au-

thority. The state of public feeling, at the present time, gave additional reason for using every effort to combine and nationalize our character. It was known that there was an existing collision between the National Government, and some of the State sovereignties. This measure would tend to unite them, and dispel the prejudices that exist but too extensively. He knew of no method so effectual as that which he proposed, to effect the object. It was like a fountain upon the summit of the empire, bursting the mounds of prejudice, and fertilizing the plains below. It would diffuse national sentiment in its progress, and dispel those wayward feelings that now, unhappily, too often clouded the understanding.

The proposition was opposed by Messrs. SAWYER and NELSON, of Maryland, to whom Mr. COOK replied, when the question was taken, and the amendment lost.

The question then recurred upon the original resolution.

Mr. GORHAM opposed the resolution. He thought it would be unjust to adopt it. The new States had not received any thing as a donation. When the inhabitants moved to the West, the allotment of a portion of land for the purpose of schooling their children was held out to them as an inducement to emigrate. It became a part of the consideration of their settlement in the wilderness, and was rather a matter of purchase on their part, than of gift on the part of the United States. But, whatever might be their title, the States had none. They had neither the usufruct nor the fee of the land. The former was in the settlers by virtue of the original compact, and if the latter did not belong to them, also, it remained in the Government, and was never parted with to the States. That is now asked, therefore, by the old States, as an equivalent for what the new States do not possess. Another difficulty, equally insuperable, presented itself to his mind. It would be difficult, not to say impracticable, to make the apportionment, even were the principle secured. Mr. G. then adverted to the three bases of apportionment that had been proposed, viz: territory, population, and revolutionary disbursements, and showed the extreme difficulties that were attendant on each. It would be impossible for human ingenuity to devise a plan that would not bear unequally; and such a rule would naturally produce jealousies and dissensions. There were, already, jealousies enough among the members of the Union, without adding to the causes that produce them. There were, also, difficulties respecting the location of the lands. The different States would become entitled to equal quantities. Delaware would, perhaps, have but one-tenth of the quantity belonging to Virginia; yet, surely, it would not do to turn off Delaware with any convenient nook or corner that might suit the convenience of the rest. Perhaps, the least objectionable course would be to divide the lands into lots of a size no less than the quantity to which the smallest States would be entitled, and then to equalize by drawing lots. In this way, it might happen that one State would own one portion at the mouth of the Mississippi, and another

on Lake Michigan. Land offices must be opened not only for each State, but for each parcel of land. This would be so expensive and burdensome as naturally to throw it back upon the General Land Office Commissioner as an universal agent; from whom, the States would receive the avails of the lands as they should be collected, which would be equivalent to receiving it from the Treasury; or, in other words, to collecting by a tax for the purposes of a school fund. Mr. G. questioned the authority of Congress to apply the public funds in this manner; for it would be as correct to apply other moneys in the Treasury to this purpose as this. It was obvious that, if so applied, the General Government would have no further control of it, and it might be applied to any other purpose than that of education, if the States thought proper so to apply it. Mr. G. also contended that it would be a manifest violation of the pledges that had been given, no less than three times, of these funds to the payment of the public debt, and he could not see any way, admitting all other objections were removed, in which it could be done without a flagrant violation of the public faith.

Mr. NELSON, of Maryland, was unwilling in this stage of the subject to debate the question of its merits. At a proper time he thought he should be able to give a satisfactory answer to all the objections which the gentleman from Massachusetts (Mr. GORHAM) had urged. The proposition, he remarked, does not ask for a commitment of any principle or any fact. It only contemplates an inquiry, and he could but hope that this House would not turn its back upon the memorials of States, admitted on all hands to be respectable, so far as to prohibit an inquiry.

Mr. BALDWIN proposed to amend the resolution by striking out all that part of the resolution which proposes a grant of land to those States which have received none, and insert "the several States," so as to make the grant general among all the States.

The SPEAKER decided this motion to be out of order, on the ground that it was essentially a substitute for the original proposition, within the meaning of the rule—inasmuch as it was incompatible with the original proposition, and went to change its principle and effect.

Mr. BASSETT dissented from the correctness of the decision of the Chair, and after some remarks, and a reference to several precedents, he appealed therefrom.

The SPEAKER explained at some length the reasons for laying down the rule, as he had done, referring to Parliamentary and Congressional history to sustain his position—and summed up his reasons in the general remark that any amendment which would have the effect to make the friends of a proposition its foes, must be in its nature intrinsically a substitute.

Mr. BALDWIN spoke a short time in opposition to the decision of the Chair, and Mr. RANDOLPH offered some arguments in support of the decision; when the question was put on the appeal, and the decision of the SPEAKER was affirmed by a large majority.

Mr. CAMPBELL, of Ohio, would not usually object to calls for information—but he thought this contained, by implication, an affirmative proposition, in relation to gratuitous grants to the new States, to which he could not yield his assent.

Mr. WALWORTH thought there was a disposition in the House to discuss the merits of the question, and, in order that members might have an opportunity, he moved to refer it to a Committee of the Whole on the state of the Union. The motion was negatived—yeas 65, nays 86.

Mr. ROSS opposed the resolution. If adopted it would imply an admission that it was true, in point of fact, that the new States had already received gratuitously a portion equal to one thirty-sixth part of the public lands. This he held to be incorrect. No such grant had been made to the new States. They were merely in the light of trustees, holding for the benefit of posterity, who were the *cestuys que trust* of the public bounty, while the fee really remained in the United States, as grantors.

Mr. NELSON, of Maryland, thereupon modified the resolution by introducing the words "may have therefore been, &c.," so as to avoid the difficulties suggested by the gentleman from Ohio, (Mr. ROSS.)

Mr. COOK proposed an amendment to extend the inquiry as to what States have received such grants, to what amount, &c., but the proposition was negatived.

Mr. ROCHESTER moved to refer the subject-matter of the resolution to a committee of the whole House, and to make the same the order of the day for to-morrow; but that motion was also negatived.

Mr. CANNON observed, that the resolution did not probably express all that the mover had intended. By the terms of the resolution, any State that may have received any quantity of land, however small or disproportionate, even if one State should have received but one thousand acres, and another State a million, would be entitled to no further quantity or average whatever. It was known that the State of Tennessee had received far less than others—and it would, therefore, be correct, in his opinion, to modify the resolution by inserting, after the word "education," the words "as will place the several States on an equal footing."

Mr. ROSS moved that the resolution, together with the foregoing amendment, be laid on the table and printed; which was lost.

The question was then taken on Mr. CANNON'S amendment, and lost.

Mr. RANKIN then intimated his intention of expressing his sentiments on the subject—but the usual hour of adjournment having passed, he moved to adjourn; and thereupon the House adjourned.

TUESDAY, January 15.

Mr. DANE presented the petition of sundry merchants of the district of Kennebunk, in the State of Maine, praying that the port of Kennebunk

JANUARY, 1822.

Proceedings.

H. OF R.

may be made a port of entry for vessels arriving from the Cape of Good Hope, and places beyond the same.

Mr. DANE also presented another petition of the merchants and ship owners of the said port of Kennebunk, praying for a grant of money to enable them to extend the length and increase the height of a pier near the entrance of said port.

Mr. HILL presented a petition of sundry inhabitants of Machias, in the State of Maine, praying that an appropriation heretofore made for building a lighthouse on Cross Island may be applied to the erection of a lighthouse on the southwest point of Libbey Island, at the entrance of Machias bay.

Ordered, That the said petitions be referred to the Committee of Commerce.

Mr. NEWTON, from the Committee of Commerce, also made a report on the petition of J. C. Vowel and Thomas Vowel, accompanied by a bill restoring to the ship *Diana* the privileges of a sea-letter vessel; which bill was read twice, and committed to a Committee of the Whole.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a statement showing the net proceeds of the sale of public lands in the States of Indiana, Illinois, and Missouri, for the years therein mentioned, rendered in obedience to a resolution of the 17th ultimo; which were ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting the report of the Commissioners appointed to view and inspect the Cumberland road, with the plat of survey and field notes accompanying the same, forwarded in obedience to a resolution of the 20th ultimo; which were referred to the Committee on Roads and Canals.

On motion of Mr. SERGEANT, the Committee on Commerce were instructed to inquire whether any alteration is necessary in the laws defining the limits of the port of Philadelphia, or the bounds within which the officers of the customs of that port may be required to perform their respective duties.

On motion of Mr. J. T. JOHNSON, of Kentucky, the House agreed to consider (yeas 69, nays 49) a resolution by him submitted on a former day, directing the Committee on Military Affairs to inquire into the expediency of establishing a national manufactory of arms, &c., on the Western waters; and the same was thereupon adopted.

Mr. CONDUCT submitted the following resolution, viz:

Resolved, That the President of the United States be requested to communicate to this House such information as he may possess, and which may not be improper to communicate, in respect to any outrages and abuses committed upon the persons of the officers or crews of American vessels at the Havana, or other Spanish ports in America; also, whether any measures have been adopted, under Spanish authority, tending to punish, restrain, or countenance, either such personal outrages, or piratical depredations upon the property of our merchants. Also, whether, in the opinion of the President, any further legislative provisions may be necessary to enable the Executive

more effectually to protect our rights from similar aggressions.

The resolution was ordered to lie on the table one day.

Mr. SCOTT submitted the following resolution, viz:

Resolved, That the Secretary of War be requested to report to this House a statement showing the number of soldiers who have received their bounty lands for services rendered during the late war, the quantity of land received by them, the number of soldiers yet entitled to receive bounty land, and the quantity of land that will be required to satisfy their claims, over and above what has been set apart by former acts of Congress.

The resolution was ordered to lie on the table one day.

Mr. GILMER submitted the following resolution, viz:

Resolved, That the Secretary of War be directed to report to the House of Representatives whether the whole of the sum of thirty thousand dollars, specifically appropriated by an act of Congress passed the 11th April, 1820, for the purpose of holding treaties with the Creek and Cherokee tribes of Indians, has been expended; if not, what part has, and whether any part of said sum is yet subject to be appropriated according to the terms of said act; also, in what manner, and for what purposes, said sum has been expended.

The resolution was ordered to lie on the table one day.

Mr. STERLING, of New York, submitted the following resolution, viz:

Resolved, That the Secretary of the Treasury be directed to inform this House what compensation has been allowed to the collector of the district of Cape Vincent, in the State of New York, for discharging the duties of his office, and whether any alteration in the revenue laws is necessary to authorize him to allow to said collector the customary and just compensation for his services, since his appointment to said office; and, also, communicate to this House such other facts, in the knowledge of the Department, as shall exhibit the propriety of the claim of said collector to an annual salary since his appointment, under the act of the 18th of April, 1818.

The resolution was ordered to lie on the table one day.

On motion of Mr. NEWTON, the Committee of Ways and Means were instructed to inquire into the policy of reducing the duty imposed on Madeira wines, and of proportioning the duty to the quality of each sort imported into the United States.

The House took up and proceeded to consider the bill to continue in force "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia;" whereupon, the bill was referred to the Committee of Commerce.

On motion of Mr. MERCER, the committee on the suppression of the slave trade were instructed to inquire whether the laws of the United States, prohibiting that traffic have been duly executed, and, if so, into the general effect produced thereby on the trade itself; also, to inquire into and report

the defects, if any exist, in the operation of those laws, and to suggest adequate remedies therefor.

Mr. CONDICT laid before the House certain resolutions adopted by the Council and General Assembly of the State of New Jersey, upon the subject of the controversy between that State and the State of New York, in relation to their respective boundaries; which resolutions were referred to the Committee on the Judiciary.

The unfinished business of yesterday being announced,

Mr. NELSON, of Maryland, withdrew the resolution depending, and, in lieu thereof, submitted the following, viz:

Resolved, That each of the United States has an equal right to participate in the benefit of the public lands, the common property of the Union.

Resolved, That the States, in whose favor Congress has not made appropriations of land for the purposes of education, are entitled to such appropriations as will correspond, in a just proportion, with those heretofore made in favor of the other States.

Resolved, That a committee be appointed, with instructions to report a bill in pursuance of the foregoing resolutions.

The resolutions being read, were committed to the Committee of the Whole on the state of the Union.

REVOLUTIONARY PENSIONS.

Mr. COCKE, from the Committee on Revolutionary Pensions, reported a bill supplementary to the act to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war; which bill is in the following words, viz:

A bill supplementary to the acts to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war.

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be authorized, and he is hereby authorized and required, to restore to the list of pensioners the name of any person who may have been, or hereafter shall be, stricken therefrom, in pursuance of the act of Congress, passed the first day of May, one thousand eight hundred and twenty, entitled "An act in addition to an act entitled 'An act to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war, passed the eighteenth day of March, one thousand eight hundred and eighteen,'" whenever such person, so stricken from the list of pensioners, shall furnish evidence, in pursuance of the provisions of said act, to satisfy the Secretary of War that he is in such indigent circumstances as to be unable to support himself without the assistance of his country.

SEC. 2. *And be it further enacted*, That, when any person, coming within the provisions of the acts to which this act is supplementary, shall, by reason of bodily infirmities, be unable to attend in court to make his schedule and furnish the evidence by said acts required, it shall be lawful for any judge of a court of record, in the district, city, county, or borough, in which such person resides, to attend at his place of abode, and receive his schedule and oath or affirmation; and said judge shall certify that said applicant was, from bodily infirmity, unable to attend such

court, which schedule, and oath or affirmation, and certificate, shall, by said judge, be produced in the court of which he is judge, and the opinion of said court of the value of the property contained in said schedule, shall be entered thereon, and certified by the clerk of said court; and such schedule shall be valid for all the purposes contemplated by the acts aforesaid.

SEC. 3. *And be it further enacted*, That pensions granted upon other and different schedules than those heretofore exhibited by the same applicants, shall commence from the time such schedule shall be filed in court.

The bill was twice read, and committed.

ELI HART.

On motion of Mr. TRACY, the House then agreed to take into consideration the report of the Committee of the Whole on the petition of Eli Hart.

The question before the House was upon concurrence with the Committee of the Whole, in amending the report of the Committee on Claims by erasing therefrom the word *not*, so as to grant the prayer of the petition.

Mr. TRACY supported the amendment made by the Committee of the Whole, and reviewed the facts and principles of the case. By referring to our report of this subject, when it was under discussion before the Committee of the Whole, it will be seen that the following are the prominent outlines in the case: That, in the year 1814, Mr. John G. Camp, the Deputy Quartermaster General, on the Niagara frontier, being destitute of public funds, applied to Mr. Eli Hart, then a merchant at Buffalo, for a loan; that Mr. Hart loaned to him the sum of \$16,000, which he, Mr. Camp, expended for forage, &c., to supply the Northern army. That, afterwards, in the year 1815, the principal of the loan was repaid to Mr. Hart in Treasury notes—and the present claim was for interest upon the loan, indemnity for depreciation of the Treasury notes, and the interest upon that depreciation. Mr. T. contended that it was a case of that sort which required *ex equo et bono* that the United States, being a party which had received a benefit from the liberal and patriotic loan of the petitioner, should refund, to an amount equal to the loss which the latter had sustained. The loan was made at a period when the credit of the Government was at a low ebb, and when many seemed disposed rather to retard than to aid the operations of the Government. At this critical hour the petitioner came forward and opened his purse to supply the exigencies of his country. It was a transaction which, as between individuals, would not admit of even a doubt, and he hoped the Government would feel itself bound to act according to the same rule of right that it prescribed to others.

Mr. WILLIAMS, of North Carolina, opposed the concurrence. He entered at length into an examination of the various considerations which the case presented. The committee, he observed, had not deemed it necessary to examine the testimony in the case, because they deemed the principle to be incorrect, admitting the facts set forth to be

JANUARY, 1822.

Proceedings.

H. OF R.

true, on which the claim of the petitioner was founded. He urged with much force the necessity of establishing general and uniform rules in the admission of claims against the United States, which were established upon testimony not ordinarily in the power of the Government to controvert or examine; and thought the present did not present a case of such pure, clear, and unquestionable patriotism as could warrant a deviation from those rules which had been found necessary to guard the Treasury from the imposition and cupidity of individuals.

Mr. SMITH, of Maryland, advocated the claim, and enforced the reasons that had been offered by the gentleman from New York, (Mr. TRACY.) He thought the Government, by paying the principal, had affirmed the loan, and the interest followed as a necessary consequence; so that a rule that should authorize the payment of the one, could not refuse the discharge of the other. He also thought the patriotism of the petitioner in coming forward at such a crisis, entitled him to more than an ordinary share of consideration.

Mr. TRACY replied; when

Mr. HARDIN took the floor, and spoke for half an hour in opposition to the claim. He contended, that when the loan was made by Camp, the faith of the Government was not pledged: he had no right to pledge it. The gentleman from New York, (Mr. TRACY,) a few days ago, had contended that even the Secretary of War could not pledge the faith of the Government for the sum of seventy thousand dollars for the Indian department; and would he now say that John G. Camp, a deputy quartermaster, could pledge the national faith in a contract he might make with Eli Hart? No; the loan was made upon his own responsibility. He, and he alone, was liable to account with the petitioner; and the United States was no party whatever to the contract with Eli Hart. Hart's claim was upon Camp; and when Camp should come forward to demand it, there was an outstanding balance, on the list of unsettled balances reported by the Third Auditor of the Treasury, against this same John G. Camp, which would probably be found a very uncomfortable offset. Mr. H. read from the book containing the list of unsettled balances, and also referred to the official statements of the value of money at the time of the repayment to Eli Hart, showing the extreme incorrectness of the representations and affidavits that had been given in the case. He considered it a claim, in reality, by John G. Camp, in which Hart's name was made use of; and commented upon the quality of that *patriotism* which now demanded, not only an interest upon the principal, and an indemnity for the depreciation, but also an *interest of seven per cent.* upon that depreciation! He was opposed to the allowance of interest in either case. The Government was always considered as ready to pay the claims against it, and, if they were not presented when due, the claimant must suffer the penalty of his own neglect. Mr. H. was equally opposed to the allowance for a depreciation of Government currency. If such a principle were admitted, it would place

before brokers and others an inducement at all times to decri the value of any paper money which the exigencies of Government might compel it to emit.

Mr. LOWNDES, after expressing his sentiments at some length upon the subject, which the position of the reporter did not enable him to hear, moved that the report be recommitted to the Committee of Claims, to examine and report upon the facts in the case; which was agreed to.

WEDNESDAY, January 16.

Mr. BRECKENRIDGE presented the petition of the Louisville Friendly Society, in Kentucky, praying Congress to allow certain hospital fees to be collected for the Louisville hospital; which petition was referred to the Committee of Commerce.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, who were instructed to inquire into the expediency of increasing the annual appropriation for arming the militia, made a report adverse to the proposed increase; which report was read and ordered to lie on the table.

Mr. KENT, from the Committee for the District of Columbia, reported a bill to extend the jurisdiction of justices of the peace in the recovery of debts in the District of Columbia; which bill was read and committed to a Committee of the Whole on Saturday next.

Mr. WILLIAMS, from the Committee of Claims, to which was recommitted the bill for the relief of sundry citizens of Baltimore, reported the same without amendment, and the bill was committed to a Committee of the Whole to-morrow.

Mr. FLOYD submitted the following resolution, to wit:

Resolved, That the President of the United States be requested to cause to be laid before this House all the correspondence which led to the Treaty of Ghent, which has not yet been made public, and which, in his opinion, it may not be improper to disclose.

The resolution was ordered to lie on the table one day.

On motion of Mr. SCOTT, the House proceeded to consider the resolution submitted by him yesterday, and the same being again read, was agreed to.

Mr. MOORE, of Alabama, submitted to the House certain resolutions adopted by the General Assembly of that State, instructing their delegation in Congress to cause such returns of the late census taken in that State as may not have been returned within the time fixed by law, to be received and counted as part of the population of the said State; which resolutions were referred to the Committee on the Judiciary.

Mr. MOORE also submitted to the House certain other resolutions of the Legislature of the State of Alabama, requesting their delegation in Congress to procure an appropriation for treating with the Creek and other tribes of Indians for the cession of certain lands lying within the limits of that State; which resolutions were committed to the Committee of the Whole, to which is committed the resolution making appropriations for carrying into effect the articles of agreement and cession

entered into between the United States and the State of Georgia, on the 24th April, 1802, and for other purposes.

Mr. TOMLINSON submitted to the House an attested copy of the report of the committee of the General Assembly of the State of Connecticut, approbatory of the principles contained in the resolutions of the General Assembly of Maryland, respecting an appropriation of public lands for the benefit of education in those States of the Union who have received no such appropriation; which report was committed to the Committee of the Whole on the state of the Union.

Ordered, That the resolutions of the General Assembly of New Jersey, upon the subject, communicated to this House on the 11th instant, be also committed to the Committee of the Whole on the state of the Union.

Mr. PLUMER, of New Hampshire, submitted the following resolution, viz:

Resolved, That the Secretary of the Treasury be directed to communicate to this House such information as he may possess, respecting the funds set apart by an act of the State of Maryland, dated December 26th, 1791, for improving the port of Baltimore, and by an act of the State of Georgia, dated February 10th, 1787, for clearing obstructions in the river Savannah, to which acts the assent of Congress was given March 17th, 1800, and by subsequent acts continued to the present time; stating the amount of duties received under said acts; the manner in which they have been applied; and how far the objects therein contemplated have been accomplished.

The resolution was ordered to lie on the table one day.

On motion of Mr. STERLING, of New York, the House took up the resolution, submitted by him yesterday, calling on the Secretary of the Treasury for certain information; and, after some explanatory remarks by Mr. S., the resolution was agreed to.

The House, on motion of Mr. CONDUCT, took up the resolution yesterday laid on the table by him; and, after modifying it, at the suggestion of Mr. LATHROP, by striking out the clause which requested the President's opinion as to the further legislative provisions necessary to enable him to protect the rights of our citizens from piratical aggression, the resolution was adopted.

On motion of Mr. GILMER, the House took up the resolution offered by him yesterday, and, after a remark or two by Mr. G. to show the necessity, as it relates to the State of Georgia, of obtaining the information called for, the resolution was agreed to.

LANDS FOR EDUCATION.

Mr. JOHN S. SMITH, of Kentucky, submitted the following resolution:

Resolved, That a committee be appointed to take into consideration the report and resolution of the Legislature of Kentucky, recommending an appropriation of a portion of the public lands of the United States, as a fund for the promotion of education in the several States of the Union, and that said committee have leave to report by bill or otherwise.

Mr. RANKIN considered the proposition the same, substantially, as that offered by Mr. NELSON, of

Maryland, and referred to the Committee of the Whole. He could see no use in referring the same subject to a select committee, and, therefore, moved that the resolution be laid on the table.

Mr. SMITH replied that this was a proposition from a different State, and was entitled to a separate consideration. It would be nothing more than an act of common courtesy to refer a proposition from such a source to a committee. It was proper also to elucidate a subject so important by every possible extent of inquiry; and while the Committee of the Whole were discussing the general question, the special committee could be considering and arranging the details. The two inquiries were not incompatible, he thought, and, if the Committee of the Whole should decide against the principle, the select committee would of course prosecute the subject no further.

Mr. RANKIN still thought the adoption of the resolution would involve the House in the absurdity of considering two propositions of the same kind at the same time; but he would vary his motion to one for committing the resolution to the same Committee of the Whole as were committed the resolutions on the same subject introduced by Mr. NELSON, of Maryland. This motion prevailed, and the resolution was committed accordingly.

EXPENDITURES OF WAR DEPARTMENT.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting the information called for by the House on the 10th instant, relative to the disbursements for the Indian department above the appropriation of the last year. The letter is as follows:

DEPARTMENT OF WAR, Jan. 15, 1822.

SIR: The Secretary of War, to whom was referred the resolution of the House of Representatives of the 10th instant, "directing that the Secretary of War communicate to that House a statement (so far as the same may be in his power to make) of the items of all the expenditures made and expenses incurred in the Indian department during the years 1820 and 1821, together with abstracts of the estimates furnished for said years by the Indian agents, upon which funds have been advanced; and, also, a statement of the several amounts which their respective expenditures were limited by the instructions of said Secretary," has the honor to enclose herewith a statement of the Second Auditor, marked A, showing "the expenditures made, and expenses incurred in the Indian department, for the years 1820 and 1821," as far as the actual expenditures can be ascertained from the vouchers received. Statement marked B, containing "abstracts of the estimates furnished for said years by the Indian agents, upon which funds were advanced, or expenses incurred," and documents marked C, containing a circular of the 16th March, 1821, to the superintendents and agents, by which will be seen "the several amounts to which their respective expenditures were limited," together with an estimate of the arrearages of the Indian department at the termination of the last year, and the general regulations which have been adopted to control the expenditures of that department.

The estimates on which advances were made are necessarily imperfect for the year 1820, as the regula-

JANUARY, 1822.

Expenditures of the War Department.

H. OF R.

tion changing the mode of making advances to agents and superintendents was adopted on the 19th February of that year. Before that period, the disbursements of the Indian department were made without estimates, principally on drafts drawn on this department by the agents and superintendents, care being taken in accepting the drafts not to exceed the sum allotted to each, without satisfactory explanation. This mode of covering the disbursements of the Indian department was, however, found to be defective, as it gave no previous check over the disbursements, and exposed the Government to fraud in disposing of drafts on it, by the agents, without accounting for the premium which they might obtain. It is not, however, known that any fraud of the kind has been committed, but it was a strong objection to the mode of making disbursements, that it was liable to abuse. Under the system adopted, if rigidly enforced, the possibility of such frauds is excluded.

Believing it to be within the intention of the resolution, I have annexed to the copy of the circular to the superintendents and agents, of the 19th March last, which contains the amount to which their respective expenditures were limited, copies of various other circulars which had been at different times adopted in order to introduce economy and accountability, and thereby diminish the expenditure of the Indian department. In addition to these, special instructions applicable to the peculiar state of each agency, have, with the same view, at various times, been given to the different agents. On account of its amount, and liability to abuse, the expenditure which particularly claimed the attention of this department was that on account of rations issued to Indians. Not long after the commencement of the present administration of this department, the circulars in relation to issuing rations, copies of which accompany this report, were issued to the agents and superintendents. It is believed, that the regulations which they contain, have had a very happy effect in preventing impositions on the Government and diminishing the disbursements of the Indian department.

By referring to the accompanying documents, it will appear that the aggregate amount allotted to the agents and superintendents, under the circular of March last, is \$79,500, leaving \$20,500 to meet such general charges against the appropriation as belonged to no particular agency, such as the debts which might be brought against it in the settlement of former accounts of expenditures for the expenses of rations issued to the Indians through the commissary of provisions, of visits of Indians to the Seat of Government, general expense under the Indian intercourse act of 1802, transportation of annuities, &c. The sum allotted to these various objects has proved insufficient. Even with the addition of the balance of the appropriation of the last year, it has not been sufficient to meet the debts arising from the settlement of old accounts. It was believed, when the estimates of the last year were made, that the balance of the appropriation of the preceding year, with such credits as might be brought to the Indian appropriation from the settlement of old accounts, would be sufficient to cover the debts. Such, however, has not proved to be the fact, as will appear by reference to the statement of the Second Auditor of the Treasury, which accompanies this report. It is proper to remark that debts which have been brought against the Indian appropriations in the last and preceding years, have risen principally out of the settlement of the accounts of army contractors, under

contracts made before the establishment of the present system of supplying the Army with provisions, which commenced on the 1st of June, 1819. The amount of rations issued to Indians could not, under the old system, be ascertained till the contractor rendered his accounts for settlement, on which the provisions issued to Indians were charged to the proper appropriation, and the appropriation for the Indian department for the year was thus liable to be affected by the disbursements of former years.

As the accounts of the former army contractors have been all audited, and as the prompt settlement of accounts under the present system of supplying the army with provisions prevents the accumulation of outstanding claims, it is believed that the appropriations for the Indian department will not hereafter be affected materially by the settlement of outstanding accounts; but as balances remain due the United States, in several cases, on account of subsistence, for the recovery of which suits have been instituted against the contractors, it may occur that awards may be made in their favor on items chargeable to the Indian department, which, on settlement by the accounting officers, have been decided to be inadmissible. In such cases the appropriation for the Indian department will be charged, and the subsistence credited with the amount.

In conclusion, it may not be improper to state, that, although two hundred thousand dollars had been the amount of the annual current appropriations for the Indian department, from the termination of the late war till last year, yet the disbursements considerably exceeded that sum previous to the year 1820, the difference being made up from time to time by appropriations for arrearages. The acting Secretary of War, Mr Graham, estimated the disbursements of the Indian department at two hundred and fifty thousand dollars in the year 1817. In his letter to the Committee of Ways and Means of the 4th of January of that year, he states: "The expenses of the Indian department have been estimated at two hundred thousand dollars; it is, however, recommended that this estimate should be increased, so as to make a permanent annual appropriation for this object of two hundred and fifty thousand dollars at least. The circumscribed limits of most of the Indian tribes east of the Mississippi and Illinois rivers, having rendered their dependence upon the chase for subsistence more precarious, has produced a more frequent intercourse between those Indians and the agents of the United States, and a consequent increase of the issue of rations and of presents to them." In addition to these causes, the number and importance of the treaties which have been held with the Indians since the late war, the great increase of the annuities and extension of the frontier have tended very much to increase the disbursements of the Indian department. Believing it, however, to be the intention of Congress that the expenditures should not exceed two hundred thousand dollars per annum, efficient measures were adopted shortly after the commencement of the present administration of this department, to reduce the amount of the expenditure within that sum.

Acting on the same principle after the reduction of the appropriation of the last session to one hundred thousand dollars for the expenses of the department, every effort was made to reduce the disbursement within the amount appropriated, which could be made without deranging the system established under exist-

H. OF R.

Expenditures of the War Department.

JANUARY, 1822.

ing laws. The consequence has been a very considerable reduction in the disbursement, but it has not been practicable to bring the expenditure within the appropriation. Though measures were taken immediately after the passage of the act making the appropriation, yet at points so remote as those at which most of the agencies are fixed, nearly one half of the year had elapsed before any considerable diminution could be effected in the rate of expenditure authorized by previous appropriations, by which time (the previous expenditure being at the rate of two hundred thousand dollars per annum) the appropriation was nearly exhausted, and the expenses of the department have been accumulating against the Government without the means of meeting them.

All which is respectfully submitted.

J. C. CALHOUN.

HON. PHILIP P. BARBOUR,
Speaker of the House of Representatives

[We have not room, if we wished, to publish all the documents accompanying this report. We select from the whole of those which appear most to bear on the discussion which has been lately going on in the House of Representatives, which are as follows: *Eds.*]

Statement of Expenditures in the Indian department in the years 1820 and 1821.

Nature of the Expenditures.	1820.	1821.
For compensation to Commissioners for running boundary lines, agents, sub-agents, interpreters, and blacksmiths - - -	59,517 66	45,310 74
For presents to and for Indians - - -	22,349 71	14,451 58
For provisions for Indians - - -	17,589 93	3,235 38
For contingent expenses, as buildings and repairs, tools, and general expenses of smith shops, expresses, transportation, laborers, removal of Indian emigrants, repairing agricultural implements, and expenses incident to executing the intercourse, per act of March, 1802, - - -	43,027 97	34,985 26
Dollars, -	142,385 27	97,982 96

Circular to Indian Agents.

DEPARTMENT OF WAR, *March 19, 1821.*

SIR: Congress having, at the last session, reduced the appropriation for the Indian Department from \$200,000 to \$100,000, it necessarily follows that a proportionate reduction should be made in the expenses of the Department.

This cannot be done without confining the disbursements of the Department exclusively to objects which cannot be dispensed with, to wit: pay of agents, sub-agents, interpreters, blacksmiths, transportation and distribution of annuities, farming and manufacturing utensils, &c., and avoiding all others, as far as it can be done without injury to the public interest, or violation of the laws or treaties; otherwise it will be impossible to make the appropriation adequate to meet

even the positive and necessary expenditures of the Department for the year.

The disbursements at your agency, in future, for the pay of yourself, sub-agent, and interpreter, and all other expenses, must not exceed — dollars; and you will endeavor, by rigid economy, to make it as much less as possible.

If the number of persons in the public employment at the agency, can be reduced with propriety, it ought to be done immediately.

Funds will be remitted to you from the Treasury, upon your quarterly estimates, as heretofore.

I am, &c.

J. C. CALHOUN.

NOTE.—A similar letter with the above was addressed to the superintendents.

The following distribution of funds was made under the appropriation for the Indian Department, for the year 1821:

Governor Cass - - - - -	\$24,000
Governor Clark - - - - -	20,000
Governor Miller - - - - -	6,000
Creek agent - - - - -	6,000
Choctaw agent - - - - -	6,000
Chickasaw agent - - - - -	4,000
Cherokee agent, Tennessee - - - - -	4,000
Illinois agent - - - - -	4,000
Red River agent - - - - -	4,000
Sub-agent, Six Nations, New York - - - - -	1,500

Estimate of Arrearages of the Indian Department, authorized to be drawn for, and to be paid, upon the passage of the Appropriation bill, at the end of the year 1821.

Governor Clark - - - - -	\$6,726 00
Robert Crittenden, acting Governor of Arkansas Territory - - - - -	1,500 00
Colonel Meigs - - - - -	4,903 00
Mr. Graham - - - - -	5,487 50
P. Menard - - - - -	4,000 00
George Gray - - - - -	1,000 00
William Ward - - - - -	3,330 00
Captain Bell, acting Indian agent, Florida - - - - -	1,000 00
Governor Miller - - - - -	3,973 00
Colonel Nicholas - - - - -	2,000 00
Colonel Crowell - - - - -	1,262 50
Governor Cass - - - - -	19,000 00
On account of this amount due to the Stock-bridge and Munsee Indians - - - - -	2,000 00
Major O'Fallon - - - - -	4,318 53
Thomas Forsyth - - - - -	909 00
L. Taliaferro - - - - -	555 00

Total - - - - - \$61,964 53

Due for issues to Indians, under Col. Thomas, contractor for supplying the Army, under date of the 26th of January, 1816, and which remained unsettled for want of an appropriation - - - - - 18,863 37

Aggregate - - - - - \$80,827 90

In the settlement of accounts for Indian annuities, the foregoing estimate of arrearages in the Indian department, at the close of the year 1821, will be reduced to about \$74,000; making \$4,000 more than was estimated at the time the letter of the 17th ultimo was written to the chairman of the Committee of Ways and Means.

DEPARTMENT OF WAR, *Jan. 14, 1822.*

JANUARY, 1822.

Missouri—District Courts.

H. of R.

MISSOURI—DISTRICT COURT.

The House again resolved itself into a Committee of the Whole on a bill to provide for the due execution of the laws of the United States in the State of Missouri, and for the establishment of a district court therein.

Mr. H. NELSON, from the committee who reported the same, proposed to fill the blank for the salary of the district judge with the sum of one thousand six hundred dollars.

Mr. HERRICK, of Maine, wished to be informed what were the duties to be performed in the State of Missouri which should authorize a salary of one thousand six hundred dollars, when in the State of Maine, altogether more commercial and imposing, as he was led to believe, more assiduous and important duties, only one thousand dollars per annum were allowed.

Mr. H. thereupon moved to fill the blank with the sum of one thousand dollars.

Mr. GARNETT moved to fill the blank with the sum of one thousand two hundred dollars.

The question was first taken on the largest sum, one thousand six hundred dollars, and lost. It was then put upon filling the blank with the sum of one thousand two hundred dollars, and carried. And, after filling the other blanks in the bill, and adopting certain verbal amendments, the Committee rose and reported the bill as amended.

In the House, after concurrence in the verbal amendments,

Mr. TOMLINSON opposed the salary as reported by the Committee of the Whole, fixing the compensation at one thousand two hundred dollars. He thought it unequal, as compared with other judges of the same court in other States, where the labor and importance of the duties assigned them were certainly not less than in the State of Missouri. He adverted to the States of Connecticut, Rhode Island, and Maine; the latter of which was the third, in point of tonnage, in the United States; and contended that, if the salary proposed in the present case was not too great, those in the States alluded to ought to be increased.

Mr. HERRICK, Mr. WALWORTH, Mr. HILL, and Mr. DUFFEE, supported the principles for which Mr. T. contended; to which Mr. SCOTT replied.

Mr. COOK was of opinion that the amount reported by the Committee of the Whole was not too great. From his own experience, he could say, that, unless a fair and adequate compensation were allowed, men of talents would not accept of the office. He alluded to the situation of the State of Illinois in relation to that subject, and thought the gentleman from Maine (Mr. HERRICK) was incorrect in supposing that the means of living were cheaper at the West than on the seaboard. Some few articles of inland growth might be cheaper; but the means of living, that a judge would want, must in a great measure be transported from the Eastern States or the seaboard. The article of molasses, for instance, would cost as much for transportation as the original price of the article in the State of Maine was worth. He was therefore fully of opinion that the sum

named in the bill by the Committee of the Whole ought not to be diminished.

Mr. HERRICK, in reply, said he cared not much about the amount of salary, whether it was one or two thousand dollars, or any other sum between those two. He was mainly anxious that the compensation of officers under this Government should be equalized as much as possible to their duties, expenditures, situation, &c. He pretended to give no light on the question before the House. It was rather his object to elicit light, and to ascertain why the judge of the district of Missouri should have a greater salary than the judge of the district of Maine, whose duties, he thought, must be greater. The gentleman from Illinois (Mr. COOK) seemed to think that one thousand dollars a year was not sufficient, in the Western States, to command adequate talents. Mr. H. was sorry that talents were not so abundant in the western as in the eastern market. He was not aware that the article of molasses made a very important item in the bill of fare of an eastern judge; and he believed the duties of no district judge in the United States required particular attention more than six or eight weeks in a year, and one thousand dollars for that service was a better compensation than he (Mr. H.) received for the exercise of his talents, which, however, he admitted, were very humble.

The question of concurrence was then taken and carried, as were also the other amendments and emendations, as made in the Committee of the Whole. The bill was then ordered to be engrossed, and read a third time to-morrow.

The House then resolved itself into a Committee of the Whole on the bill to authorize the payment of certain certificates.

The first section, as reported, was agreed to without amendment; but, on the second section, relating to a provision for the payment of outstanding certificates, a debate, somewhat desultory, arose, in which Messrs. LATHROP, M'Coy, SMITH, of Maryland, COCKE, WOODCOCK, and MILNOR, took part; when, on motion of the latter, the Committee rose and reported, and the bill was committed to the Committee on Pensions and Revolutionary Claims.

The SPEAKER presented a communication from the Secretary of the Treasury, in conformity to a resolution of the House, calling for information respecting the payment over of moneys received by the marshal of the eastern district of the State of Pennsylvania, for military fines; which, on motion of Mr. DARLINGTON, was laid on the table, and ordered to be printed; and the House adjourned.

THURSDAY, January 17.

Another member, to wit, from the State of Virginia, JAMES JONES, appeared, produced his credentials, was qualified, and took his seat.

Mr. KENT presented a petition of sundry inhabitants of the county of Washington, in the District of Columbia, praying that persons who furnish materials, and the mechanics and laborers who engage in the construction of buildings within

the said county, may be invested with a lien in any building or buildings, towards the erection of which they may have, in any wise, contributed, until their demands, respectively, shall have been completely satisfied and paid off, so as that their interests may be effectually guarded and protected from the wily cunning and dishonest spirit which the petitioners allege so unfortunately abound within the said county; which petition was referred to the Committee for the District of Columbia.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to which was recommended the bill authorizing the payment of certain certificates, reported the same with an amendment, which was read, and, together with the said bill, was committed to a Committee of the Whole.

Mr. SMITH, from the Committee of Ways and Means, made a report on the petition of Nathan Branson, accompanied by a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. NEWTON from the Committee of Commerce, reported a bill for the relief of William Bartlett and John Stearns, owners of the schooner Angler, and Nathaniel Carver, owner of the schooner Harmony, and others; which was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of David Cummings, accompanied with a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. KENT, from the Committee for the District of Columbia, reported a bill to extend the charter of the Mechanics' Bank of Alexandria, in the District of Columbia; which was read twice, and committed to a Committee of the Whole.

Mr. FLOYD, from the committee appointed on the 10th ultimo, to inquire into the expediency of occupying the Columbia river and the territory of the United States adjacent thereto; and of regulating the trade with the Indian tribes, reported, in part, a bill to regulate the intercourse with the Indian tribes within the United States and territories thereof; which was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMSON submitted the following resolution, viz:

Resolved, That the President of the United States be requested to lay before this House such information as he may possess in relation to the progress made by the commissioners under the fifth article of the Treaty of Ghent, in ascertaining and establishing that part of the boundary line between the United States and the British provinces, which extends "from the source of the river St. Croix" "to the northwesternmost head of Connecticut river;" how much of the above mentioned line has been actually surveyed; whether a map duly certified has been returned of any survey made, and whether the commissioners of the two Governments have had any meetings within a year past.

The said resolution was ordered to lie on the table one day.

On motion of Mr. WILLIAMSON, the Committee

on Military Affairs were instructed to inquire into the expediency of erecting a battery or other fortification on the west side of Penobscot river, in the town of Prospect and State of Maine, near the head of Orphan island and opposite the Narrows, so called, in said river.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives:

In compliance with a resolution of the Senate, requesting the President "to cause a statement of the expenditures upon the public buildings, and an account of their progress, to be annually laid before Congress at the commencement of each session," I herewith transmit the annual report of the Commissioner of the Public Buildings.

JAMES MONROE.

WASHINGTON, January 15, 1822.

The Message was read, and ordered to lie on the table.

Mr. HOBART submitted the following resolution:

Resolved, That the Postmaster General be directed to communicate to this House a statement of the gross amount of postages; the number of post offices in the United States; the extent in miles of the post roads; the amount of compensation to deputy postmasters; the expense of transporting the mail, together with the incidental expenses of the Post Office Department, and the balances in favor or against the same in each of the last six years. And in case the revenue of the said department should now be insufficient to meet the expenditures thereof, to suggest such measures as he may deem proper, either to supply such deficiency, or to reduce the said expenditures.

The resolution was ordered to lie on the table one day.

Mr. HARVEY communicated to the House certain resolutions of the Senate and House of Representatives of the State of New Hampshire, in favor of an appropriation of public lands for the purposes of education in States where such an appropriation has not already been made, according to the principle contained in certain resolutions of the General Assembly of Maryland, communicated to this House at the last session of Congress; which resolutions were committed to the Committee of the Whole on the state of the Union.

On motion of Mr. STEWART, the Committee of Ways and Means were instructed to inquire into the expediency of appropriating a sum of money to erect a bridge over the Monongahela river, where the Cumberland road crosses the same at Brownsville.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a copy of the instructions given under the 8th section of the act of 21st April, 1806, to the several boards of commissioners for settling land claims within the then Territories, now States of Louisiana and Missouri; also transmitting all the books of the said commissioners as rendered to the Treasury Department, whether the said books relate to the confirmation or rejection of said claims; which was referred to the Committee on the Public Lands.

JANUARY, 1822.

Treaty of Ghent—Apportionment Bill.

H. OF R.

An engrossed bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Missouri, and for the establishment of a district court therein," was read the third time, and passed.

TREATY OF GHENT.

On motion of Mr. FLOYD, the House proceeded to the consideration of the resolution offered by him yesterday, requesting of the President of the United States "all the correspondence which led to the Treaty of Ghent, which has not yet been made public, *and which, in his opinion, it may not be improper to disclose.*"

Mr. FLOYD remarked that, as peace was now restored, there was no reason why the whole of the correspondence which led to the treaty of peace, should not be made public. He therefore modified his motion by striking out the excepting clause, in *italic*, and inserting after the word "Ghent," the words, "together with the protocol." He would also observe, that the bill which he had this day reported to the House, contemplated a very considerable change in our intercourse with the Indian tribes in the West, and it appeared, by the report of the Secretary of War, made yesterday, that a great influence was exercised over those tribes by our European neighbors in that quarter. The correspondence between the Commissioners at Ghent embraced this subject, among others, and he thought it was desirable that the House should be in possession of the whole of it.

Mr. LOWNDES presumed the House would have no objection to obtaining the information alluded to, if it were proper to make it public; but he thought it would be proper to leave the President, in the form of the request, the option of communicating such of the correspondence only as he might deem it not improper to disclose. This was the usual form adopted by the House, and, although peace had taken place, there might be some parts of the correspondence which it would be improper to publish. An unlimited call for all the information in the possession of the Government on the subject, might create some embarrassment, and he hoped the mover of the resolution would restore it to its original shape.

Mr. FLOYD was unwilling, by any act of his, to embarrass the Executive; but presumed there was nothing asked for in this resolution which would have that effect, and feeling anxious to obtain all the information on this subject which could be furnished, he preferred the motion in its present form. If the motion would reach any State secret—admitting there ought to be any State secrets in this Government—he wished not to be instrumental in disturbing it; but he anticipated no such consequence.

Mr. LOWNDES rejoined, in substance, that, although five or six years had elapsed since the restoration of peace, it did not follow that all that passed in the negotiations was proper for publication. Some parts of the correspondence it might be incompatible with the public interest to disclose to the world; at any rate it was proper to except such as the President might deem the public

good required him to withhold. Mr. L. therefore moved to amend the resolution by restoring the words, "and which, in his opinion, it may not be improper to disclose."

Mr. FLOYD thought there was, in reality, no difference between himself and the gentleman from South Carolina. If the gentleman was apprized of any thing which it was improper to communicate to the House, to be sure that would be a different matter; but if his remarks were general, and had reference to no particular facts in the correspondence, there was no reason for the amendment.

The question being taken, the amendment was agreed to; and, thus amended, the resolution was adopted, and a committee of two appointed to carry it to the President.

APPORTIONMENT OF REPRESENTATION.

Mr. CAMPBELL, of Ohio, moved that the orders of the day prior to the apportionment bill be postponed, with a view that that bill be now acted upon.

Mr. BLAIR opposed the motion. The complete returns from South Carolina had not been made. He had reason to believe they would be so in a few days. With regard to the reason that had been drawn from the convenience to the Legislatures of the States now in session to locate their Congressional districts, he thought the inconvenience of postponing it for another year was less than that a State should be deprived of its ratio of population.

The question was then put and the motion was carried.

The House thereupon resolved itself into a Committee of the Whole on the bill for apportioning the representatives of the several States to Congress, according to the census of 1820.—Mr. SMITH, of Maryland, in the chair.

Mr. LOWNDES thought it improper to consider the bill at this time, not only for the reasons that had been assigned—but because the State of Delaware was without a representative on the floor—one (Mr. RODNEY) having been elected a Senator, and the other (Mr. McLANE) having gone home on account of sickness.

Mr. BALL, thereupon, moved that the Committee rise and report—which motion was negative.

After some discussion of the subject, the House agreed, *nem. con.*, to consider the word "forty," before the word "thousand," in the bill as reported by the Committee a blank, so as to leave the apportionment unfettered by any rules or questions of order. The following numbers, for the ratio of apportionment, were thereupon proposed:

By Mr. Keyes, of Vermont	-	-	-	75,000
By Mr. Van Wyck, of New York	-	-	-	55,000
By Mr. Morgan, of New York	-	-	-	52,000
By Mr. Tracy, of New York	-	-	-	50,000
By Mr. Williams, of North Carolina	-	-	-	49,000
By Mr. Upham, of New Hampshire	-	-	-	48,000
By Mr. Mallary, of Vermont	-	-	-	47,000
By Mr. Abbot, of Georgia	-	-	-	46,000
By Mr. Wood, of New York	-	-	-	45,000
By Mr. Barber, of Ohio	-	-	-	44,000

H. OF R.

Apportionment Bill.

JANUARY, 1822.

By Mr. Gebhard, of New York	-	-	43,000
By Mr. Edwards, of North Carolina	-	-	42,000
By Mr. Ross, of Ohio	-	-	41,000
By Mr. Rochester, of New York	-	-	40,000
By Mr. Gist, of South Carolina	-	-	39,000
By Mr. Tucker, of Virginia	-	-	38,000
By Mr. Baylies, of Massachusetts	-	-	37,000
By Mr. Farrelly, of Pennsylvania	-	-	36,000
By Mr. Baldwin, of Pennsylvania	-	-	35,000

Mr. Wood, in support of the number (45,000) he had proposed, remarked that it was impossible to fix any standard that should give a precise ratio for representation. It ought, however, to be such as would be most sure to introduce intelligence, integrity, and despatch in the performance of the duties confided to this House by the Constitution. Seventy-five thousand and thirty-five thousand were the extremes that had been named. *In medio tutamen.* Seventy-five thousand was, in his opinion, too large; and thirty-five thousand too small a ratio. The number should be so small that the elector and elected could be supposed reciprocally to know each other, and that the representative should fully understand the interest of his constituents. It would be recollected, however, that the facilities of intercourse were greatly improved within the last twenty years. A bill could hardly pass through the House with the ordinary forms, before its drift and bearing were not only known, but discussed, even in the remoter States of the Union. There was less necessity, therefore, than formerly that the districts should be large. In addition to which it would be considered that the qualifications of a representative to Congress and a member of a State legislature, were very different. In the latter case a minute local knowledge of the concerns of their constituents was necessary; but in the former case the knowledge required was less of a local character. It was general in its object; it related to questions of war and peace, foreign relations, revenue, &c. The policy of the nation was settled, and the wheels of Government were moving on. Where a number was agreed to of great extent, there was a better opportunity of selecting men of talents; but, on the other hand, a body, if too small, was more liable to intrigue. The ratio of 45,000 would increase the present number of Representatives but one, and the present was, in his opinion, a sufficient number for the despatch of public business. A greater number would diminish responsibility; and, so far as public sentiment, in the State he had the honor in part to represent, had been expressed, both by the old constitution and that proposed by the recent convention, it was opposed to a numerous legislative body.

Mr. CAMPBELL, of Ohio, stated the ratio and numbers that had been heretofore successively adopted. In the first Congress the number of representatives was 65, but the apportionment was made upon an uncertain ratio. It was the effect of mutual compromise and opinion. At the census of 1790 the number of representatives was increased to 101, upon a ratio of 33,000. At the census of 1800 the same ratio was retained, which

increased the number of representatives to 141. At the census of 1810 the ratio was increased to 35,000, which gave the present number of 187 representatives. The first increase was 36, the second 40, and the third 40. He, Mr. C., was in favor of the number of 42,000 under the present apportionment, which would give an increase of thirteen. This increment was small, in comparison with the progress of wealth and population. A great reduction naturally exposed the body acted upon to Executive influences; and a small body must ever be considered as more assailable than a larger. He agreed with the gentleman from New York, (Mr. Wood,) that, by reducing the ratio to 35,000, the body would become too numerous. A medium should be preserved, and he doubted whether any number could be found less objectionable than that which he supported. The members of this House ought to correspond in some just proportion to the numbers of the Senate; but it was very obvious that, within a few years past, that body had increased in a ratio altogether disproportionate to this House.

The question being about to be put by the chairman on the largest number, 75,000—

Mr. KEYES rose and observed that, having proposed that number as the ratio, it was, perhaps, incumbent upon him to state the reasons by which he was influenced. Each member would admit that his voice was not loud enough to be heard in the various parts of this Hall. Where business was to be done, it was expedient that those who do it should be heard, otherwise it cannot be understood. This was one reason. Another was, that, in so numerous a body, it was next to impossible for the Speaker to preserve that order which was requisite, as well for a due decorum as the despatch of public business. Another essential reason was, that it would reduce the expenditures upon the civil list, and would be a great saving to the nation.

The question was then taken on the number proposed, and negatived.

The next number in order was 55,000.

Mr. VAN WYCK stated, briefly, his reasons in favor of that number. His object was two-fold: to expedite public business, and to economize the public expenditure. Mr. V. W. adverted to the reasons that had influenced the framers of our Constitution to adopt a small ratio, but contended that they were wholly inapplicable at present. The facilities of intercourse had so much increased of late that there was no difficulty, on the part of the representative, in the way of obtaining every necessary knowledge of the situation of all his constituents; and, in point of economy, his proposition would save \$92,500 per annum to the public treasury.

The question was then taken on the ratio as proposed by Mr. VAN WYCK, and negatived.

The numbers of 52,000, 50,000, and 49,000, were successively put, without debate, and lost.

48,000 was also put and lost—ayes 35.

47,000 was put and lost—ayes 53.

46,000 was next put, and lost—ayes 50.

45,000 was then put, and lost—ayes 67, noes 80.

JANUARY, 1822.

Apportionment Bill.

H. OF R.

44,000 and 43,000 were also rejected, without division.

The question was then taken on 42,000, and carried—ayes 81, noes 73.

Mr. CAMPBELL moved that the residue of the bill be so amended as to correspond with the ratio that had been adopted; which was agreed to.

The Committee then rose, and reported the bill as amended.

In the House, Mr. CAMPBELL moved that the question of concurrence be taken by yeas and nays; which was agreed to.

Mr. DURFEE spoke at considerable length in opposition to the concurrence with the Committee of the Whole, in the ratio of 42,000.

Mr. DURFEE commenced his observations by saying that, from the vote which had just passed for filling the blank with forty-two thousand, he felt himself constrained to offer some objections to the adoption of the report. When it was proposed to deprive a State of one-half her representation, the silence of her delegation was no longer excusable. He would not, however, at this time, consider the proposed ratio in its operation on particular States; he would consider it as a national question; he would consider it in its bearing and effect on the whole Union, and on the several branches of the Government.

When the Constitution of the United States was proposed to the people, one of the strongest objections made to its adoption was, that Congress would not increase the number of representatives as the population of the United States increased, or their interest required. It was said that the effect of the plan would be to throw a vast power into a few hands, and that, in place of a republic, we should soon have an aristocracy. One of the first statesmen of the age, and one of our best political writers, endeavored to obviate this objection, and to prove (as he no doubt fondly imagined he did prove) that the number of representatives would be augmented in proportion as our population increased, or its interest demanded. But, sir, said he, if there be now living a single enemy to that Constitution, and to the principles of our Government, he must exult at the prospect which the vote that has just been given presents of a complete realization of these gloomy predictions.

Under the first census the ratio was thirty-three thousand; it was the same under the second; under the third it was augmented only two thousand; but it is now proposed, by a sudden start, to depart from this slow and gradual augmentation of the ratio; to leap over the number of seven thousand, and adopt a ratio of forty-two thousand. When, sir, it is proposed to depart from a course of policy which experience has approved—which at least has never been a subject of complaint, it is natural to require of the advocates of the measure arguments, not merely specious, but such as are conclusive, demonstrative, and convincing, leaving nothing to doubt. Now, sir, what are the reasons that have been offered for this extraordinary increase of the ratio? It has been said, by an honorable member from New York, (Mr. Wood,) who it seems favors a ratio still higher than the

one adopted by the committee, that, if the number of members be increased, public business will be neglected and delayed, and that, to secure despatch, our present number ought not to be augmented. Sir, in endeavoring to avoid this very great evil, as it is now considered, of too little legislation, we ought to be cautious lest we run into the opposite extreme of too much legislation. The business, sir, which is done in this body may be divided into two sorts—that which is necessary, and that which is not necessary, or certainly of doubtful expediency. In the first class may be placed the necessary provisions for the revenue of the succeeding year; the necessary appropriations for the civil, military, and naval departments; the necessary investigations of our foreign relations; the annual examination into the administration of our affairs in the various departments of Government; into the official conduct of Executive officers, and their general management of our concerns. Such, sir, generally, is the necessary business of Congress; and it is business which will always be done; which the public wants and public exigencies will compel you to perform. No matter of what number this House may consist, this, the necessary business of Government, cannot be neglected.

With regard to that business which is unnecessary, or at best of doubtful expediency, such as projected changes in the great pursuits of life, great and sudden improvements in the various concerns of the people, it is better, for the most part, that they be suffered to lie and sleep on the table before you, than be acted upon to effect. They may, sir, serve for discussion; but, when things have settled down to existing and known laws—when they have become accommodated to them—when they have become thoroughly understood in all their various relations, and are sustained in those relations by those laws as by their common basis, every new legislative expedient which is adopted produces uncertainty and confusion. To prevent, therefore, the increase of the numbers of this body, in order to enable it to do more business, is but to enable it to try a greater number of legislative experiments, and, under the name of improvements, to introduce disorder. Sir, the still quiet of a despotism is better than the anarchy of frequent change.

Another objection has been urged to an increase of the number of this House. It has been said that the room is not large enough to admit of an addition to our number. This indeed, sir, is an argument that I did not expect to hear advanced in the discussion of a question of great national importance. Really, sir, has it come to this? Must we inquire of our Architect how many Representatives the people of the United States are entitled to? Are we to inquire of him how long and how broad is this Hall, and then deal our representation to the States by geometrical admeasurement—by the foot and the yard? If it be a large room, then the people of the United States may have a large representation; if it be a small room, then they must content themselves with a small representation. Sir, the interest of a great nation is not to be controlled by considerations like

these. The limits of this Hall cannot prescribe bounds to their representation.

Having, as I think, sir, noticed the most important objections which have been urged to an increase of our representation, in a just proportion to our growth as a nation, permit me to call the attention of the House to some considerations which appear to me to justify such an increase. And here, sir, permit me to observe that the question what number of Representatives a given population is entitled to, is a question of no ordinary difficulty. I agree with gentlemen that it rests upon undefined, broad, and general principles. It opens to the view a wide and extensive field which presents no landmarks to direct the course of the traveller to a proper termination. It affords no data from which to commence our calculations in order to arrive at the proper conclusion. The rule of determining the number of Representatives by population is a rule entirely of modern invention. The history of Governments is silent on the subject; but this, sir, history yet enables us to say, with some degree of certainty, that no nation, with a population consisting of nearly ten millions of inhabitants, ever had a less number of Representatives than the people of the United States. Upon this question the Constitution, it must be admitted, is but an imperfect guide. That instrument provides that the number of Representatives shall not be less than one for every thirty thousand; and from this negative provision an affirmative power is inferred to increase the ratio to any assignable number. I do not mention this circumstance, sir, for the purpose of calling the correctness of the inference in question. I feel no disposition to throw myself into the list against those veteran legislators who framed the Constitution, and gave it its first construction; but I mention it for the purpose of saying that it is at most but a discretionary power, and as such ought to be exercised with the utmost caution. It justifies no sudden transitions from a moderate to a high ratio—no sudden departure from the precept of examples sanctioned by experience.

But, sir, in determining upon the manner in which this power should be exercised, we must be governed by other considerations than merely that of number. In deciding upon the number of Representatives which a given population should have, it is evident that we ought to take into view its character. A population consisting of simple husbandmen, engaged in the same pursuits; having the same general interests; with the same or similar feelings; with the like habits, opinions, and manners; and, in one word, possessing the same uniform character,—will require a less number of Representatives, in order to a fair expression of their interests and opinions, than a population divided into various classes, and whose interests and opinions are principally determined by the different pursuits in which they are engaged. A population of a character thus uniform can be fairly represented, without difficulty, by a small number. But, sir, when that population has vastly increased in number—has divided itself into all the various classes of farmers, mechanics, manufacturers, and

merchants, it requires a large representation, in order that the interests, feelings, and views, of these different classes, might be fairly understood, or at least felt, in the Representative body.

But, sir, there is another consideration to be taken into view; it is the extent of territory over which the population to be represented is spread. Where a people occupies a small area, where the population is very dense, and sentiment and opinion are easily communicated from breast to breast, where the same or similar feeling can, in a short time, be transferred through the whole mass of which the community is composed, such a population can, unquestionably, be more easily represented than one spread over a vast extent of territory, with its parts separated, in some instances, by miles, having but imperfect communications of individual feelings and opinions. Now, sir, by the first census our population consisted of 3,614,914. The number of Representatives, which such a population was considered entitled to for the purpose of a fair expression of public opinion, consisted of one hundred and five, and this number was not, and has never been, complained of as an extravagant number for such a population; and we were then, generally speaking, plain agriculturists—but now, sir, when this population has increased nearly three-fold, has spread itself over double the extent of territory, has divided itself into all the various classes of which a people can consist; when it has become largely commercial, largely manufacturing, as well as largely agricultural; when these three great interests, in all their branches and parts, have become intricately interwoven with each other, complicated and difficult to be understood, it is proposed to do what? Not relatively to increase the number of Representatives, but to increase the ratio, and relatively to diminish the number. But, sir, if any inference is to be drawn from the existing state of the nation, it warrants a great increase, rather than a great reduction of the representative body. But, sir, I have another reason for opposing this great increase of the ratio. As one coming from one of the small States, for I find there are more small States than one or two—I call those large States, sir, which, consisting of three or four in number, can unite their representations in this House, form a majority, control its proceedings, and hold the fate of the nation in their hands; which can say to this Government, you shall continue to be, or you shall cease to be; which can permit its wheels to roll on, or stop them in their progress, at will; these, sir, I call large States; the others are small, and as one coming from one of these small States, I feel a peculiar interest in the strength of the General Government, and durability of the Union. It is under the protecting shield of that Government that the rights and sovereignty of the smaller States are secure, and whilst its Constitutional laws are respected and revered, as they ought to be, the liberties of those States will be safe, and beyond the reach of danger. Nothing but the Constitution, that common bond of union, which keeps the orbs of our system within their respective spheres, can prevent the larger States from

JANUARY, 1822.

Apportionment Bill.

H. OF R.

crushing into atoms the smaller bodies by which they are surrounded. I wish not, sir, to be understood to express any jealousy in relation to present concerns, yet it is our duty to look to the future, and guard against not improbable contingencies. In what manner then, sir, can this be more effectually accomplished, than by increasing the sympathy which does, or ought to subsist, between the Government and the governed; between those who make the laws, and those upon whom the laws operate; and how, sir, is it to be increased, but by enabling the people more immediately to take their share in legislation, and more sensibly to feel that the Government and laws under which they live are their own; by giving them a larger representation, and creating a more intimate and a stronger connexion between them and the Government under which they live? Besides, sir, there are generous and aspiring minds in every part of the Union, whose number increases in proportion as your population augments; they communicate to those who are around them their own feelings, their own principles, attachments, and affections, and the general mass of our population is moved as they are moved; by increasing the number of Representatives, you hold forth to their laudable ambition additional objects of attraction, to which they, and with them every part of the great body of the people, will be drawn; will be attracted as to a common centre, by a principle somewhat analogous to that law which binds together the material universe. But, sir, it may be objected, (and the alarm has already been sounded,) that to increase the number of Representatives, will be to melt down the State Governments into one common mass, and produce a consolidation of the Union. But, sir, permit me to ask how such an inference can be drawn from such premises? Though the members of the Senate are elected by the States, as the peculiar guardians of their sovereignties, is there a single member of this House that will yield, in attachment to State rights, to any member of the Senate? I feel confident that there is not, and equally confident that no person can be elected a member of this body who is destitute of attachment to the rights of the State from which he comes. Therefore, sir, in proportion as you increase the number of this House, you increase the number of those in the General Government attached to the States by every tie of interest and affection. You at one and the same time obtain additional guarantees for the protection and safety of the States individually, and confirm and strengthen their common government and union.

Sir I have another, and, if possible, a stronger, objection to this increase of the ratio. In the course of my short experience, (and it has indeed been short,) I have heard something said of Executive influence. I do not, sir, indulge in any suspicion that any improper influence at present exists. My views are altogether prospective, and when known causes are in operation, and must continue to operate, we may, without making any pretensions to a spirit of prophecy, be permitted to predict that result. The article in the Con-

stitution which gives to the President the right to nominate, and, with the consent of the Senate, to appoint, Ambassadors, other public Ministers, Judges of the Supreme Court, and all other officers whose appointments are not therein otherwise provided for, and which are established by law; vests in him a power which ought to be watched with a jealous eye. It is a power which may be applied to the worst of uses, and we know not into whose hands it may fall. It is a power which is increasing, and will continue to increase, in proportion as your population increases; and your population is augmenting beyond the example of any other nation, ancient or modern. The old States are filling up, and you have already begun to erect new States beyond the waters of the Mississippi. The tide of emigration is rapidly setting Westward, and will continue to flow in that direction until it meets with the wave of the Western ocean. Your laws must follow your population, and the number of civil appointments must multiply; and from this source the means of Executive patronage must vastly increase.

In proportion as your frontier extends, and your population comes in contact at a greater number of points with other nations, you must increase the number of your fortifications and military posts. Your Army must be augmented, and military appointments must become more numerous in proportion as it augments, and from this source the means of Executive patronage must constantly increase. The people have decreed the augmentation of the Navy, and the progress of its augmentation will be in proportion to the growth of the nation and the increase of national wealth. The number of naval appointments must therefore become great, and afford additional means to Executive patronage. Is it not, therefore, manifest that there is at present no inconsiderable means of influence in the hands of the Executive, and that these means must and will continue to increase with your population? And, whilst they are thus constantly accumulating; whilst the power of the Executive is every day receiving accessions from them, every day becoming more and more alarming, we are told that the number of this House, exposed as it is to the full force of this power, ought not to be increased in the like proportion, but relatively diminished by adopting the high ratio of forty-two thousand, as if it were our duty to expose it more effectually to the danger which threatens it. That influence, sir, which would be lost among many would be sensibly and deeply felt by a few; and, if we pursue such a course as will prevent the proportional increase of this body, we may see, in a short time, on this side the Atlantic as well as on the other, a compliant Parliament and powerful Executive.

If I have indulged in too much jealousy, I hope it is not altogether inexcusable, especially in one coming from a class of the community (I mean the agricultural class) in which, if anywhere, republican principles prevail in all their original purity—and one who is stationed here by that class, in common with others, as one of their sentinels to watch

with vigilance that liberty which is secured to them by the Constitution.

He concluded, with observing that he should not at present say any thing of the injurious effect which this bill, in its present shape, would have upon the State from which he came, but should reserve those observations for another occasion, if the course which the bill took should unfortunately render them necessary.

Mr. RANDOLPH made a few preliminary remarks on the impossibility of keeping apart power and wealth, which, whenever separated by any revulsion, seek a reunion by a tendency as true as gravitation, and as naturally as the sexes. It has been so from the beginning, said he—male and female created he them, and do what you will they will get together. He went on to observe that he looked with some dismay upon the present political prospect before us. He saw the old members of the Confederacy about to be placed in the back ground. He could see two of the members of the old family of the good old thirteen United States—God bless them—about to be, he would not say proscribed, but submitted to an operation by which they would be deprived of a moiety of their representation on this floor: and this, too, in the absence, and the necessary absence, of the whole representation of one of these States. The State of Delaware, to which he alluded, had produced many illustrious men—men who were eminently useful in the Revolutionary war, both in the cabinet and in the field. For himself, he was disposed to pay her all that deference to which she was entitled by her gallantry, ability, and, if he might so express himself, by her weakness; a weakness, however, not in nerve, not in the arm, nor in the head, but a weakness—a weakness of numbers, when compared with the magnitude of other States.

Mr. R. therefore moved that the further consideration of the bill be postponed until next Monday week, which was put and carried—ayes 91.

FRIDAY, January 18.

Mr. DICKINSON presented a memorial of the inhabitants of the city of Troy, in the State of New York, in opposition to the enactment of a system of bankruptcy for the United States; which memorial was referred to the Committee of the Whole on that subject.

Mr. SERGEANT, from the Committee on the Judiciary, to which the subject has been referred, reported a bill to authorize the holding of a district court at Louisville, in Kentucky; which was read twice, and committed to a Committee of the Whole.

Mr. STEVENSON, from the Committee of Ways and Means, made a report on the petition of James Ross, accompanied by a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. CANNON, from the Committee on the subject of the Militia, to whom the subject was referred, reported a bill to provide for clothing the militia, when called into the service of the United

States; which was read twice, and committed to the Committee of the Whole.

Mr. FLOYD, from the Committee appointed on the 10th ultimo, to inquire into the expediency of occupying the Columbia river, and the territory of the United States adjacent thereto, and of regulating the trade with the Indian tribes, made a further report, in part, accompanied by a bill to authorize the occupation of the Columbia river; which bill was read twice, and committed to a Committee of the Whole.

On motion of Mr. McCoy, the Committee on the Judiciary were instructed to inquire whether any, and, if any, what, measures are necessary to secure the Government, in the several departments, from impositions by the exhibit of fraudulent claims.

Mr. McCoy submitted the following resolution, viz:

Resolved, That the following be established as one of the standing rules of the House, viz:

No petition for a claim of any description shall be received unless accompanied by evidence showing that the claim had been made at the proper department and disallowed, and stating the reasons of such disallowance.

The resolution was ordered to lie on the table one day.

Mr. CAMBRELENG laid the following resolution on the table:

Resolved, That the Secretary of the Treasury be directed to furnish this House with the annual statement of the transactions of the Bank of the United States for the year 1821.

Mr. STEVENSON presented a memorial of sundry citizens of Richmond, Virginia, praying for a repeal of the restrictive system; which was referred to the Committee on Commerce.

Mr. BATEMAN laid the following resolution on the table:

Resolved, That the Secretary of the Treasury be directed to report to this House what progress has been made in the settlement of the arrears in the accounts of the Post Office Establishment; and also what difficulties, if any, have interfered in the final liquidation thereof.

Mr. LOWNDES presented a letter from George W. Erving, Esq., a citizen of the United States, residing at Paris, announcing the transmission of a box of valuable medals by a vessel that foundered at sea on its way to New York, and which were intended to be deposited by their liberal donor in the Library of the United States for the public use. The donation was valuable, as it comprised all the medals that were struck in France from the commencement of the revolution to the re-establishment of the present family on the throne. These medals, Mr. L. said, were become scarce. They had been collected and destroyed by the reigning Government, that the glory of the period might be obliterated, which it was now popular to praise. Mr. L. not knowing precisely what would be the proper mode of disposing of this letter, said he should move to refer it to the Library Committee for their consideration. The letter was then read.

JANUARY, 1822.

Indian Affairs—General Wooster—William Henderson.

H. OF R.

On motion of Mr. LOWNDES, the letter was referred to the Committee on the Library.

INDIAN AFFAIRS.

Mr. COCKE, in rising to make a motion, remarked that the communication which had been made to this House by the Secretary of War, on the subject of the expenditures, &c. of the Indian department, did not conform to the directions that had been given by this House, nor was it satisfactory to his mind. The resolution had called for full and detailed information on the subject, and the Second Auditor had taken it upon himself to decide what part of the information was proper to communicate, and what it was proper to withhold. Mr. C. was disposed to judge for himself on that point, and wished for some criterion by which to justify himself to his constituents and to his own conscience for the votes which he was called upon to give on this subject. He therefore submitted the following resolution:

Resolved, That the Secretary of War be directed to lay before this House a copy of the account current of the Governor of the Michigan Territory, which shall exhibit a perfect view of his superintendency of Indian affairs for the year 1820, and, as far as in his power, the account of said superintendency for the year 1821, specifying the particular items of expenditure, and to whom paid; and also a similar account for said years of the superintendency of the government of the late Territory of Missouri.

Mr. C. thereupon moved that the standing rule that required such resolutions to lie one day on the table be dispensed with, to the end that no unnecessary delay or embarrassment be produced by its adoption, which he assured the House was very far from his intention.

The rule was thereupon dispensed with *nem. con.*, and the resolution was adopted.

GENERAL WOOSTER.

Mr. TOMLINSON submitted the following:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of appropriating the sum of five hundred dollars to carry into effect a resolution of Congress, passed June 17, 1777, providing for the erection of a monument to the memory of General David Wooster, who fell in bravely repelling an inroad of the British forces to Danbury, in Connecticut.

Mr. T. asked for the reading of the following resolution of Congress:

Resolved, That a monument be erected to the memory of General Wooster, with the following inscription:

"In honor of David Wooster, Brigadier General in the Army of the United States. In defending the liberties of America, and bravely repelling an inroad of the British forces to Danbury, in Connecticut, he received a mortal wound on the 27th day of April, 1777, and died on the 2d day of May following. The Congress of the United States, as an acknowledgment of his merit and services, have caused this monument to be erected."

Resolved, That the Executive power of the State of Connecticut be requested to carry the foregoing

resolution into execution, and that five hundred dollars be allowed for that purpose.

Mr. T. remarked that, as the resolution under consideration proposed an inquiry merely, he deemed it unnecessary for him, on this occasion, to do more than briefly state the facts which had induced him to offer the resolution before the House. He said, it appeared by a certificate from the Treasury Department, that the sum allowed to carry into effect the resolution of Congress which had been read, had not been paid to the Executive of the State of Connecticut. Mr. T. stated that he had received information from a highly respectable source that no monument had been erected in pursuance of the resolution to which he had adverted, to the memory of the distinguished hero named in that resolution, but that his remains now rested with nothing except a rude stone to mark the spot where they were deposited.

The resolution was thereupon adopted.

WILLIAM HENDERSON.

On motion of Mr. BALL, the House resolved itself into a Committee of the Whole on the report of the Committee of Claims upon the petition of William Henderson.

The report, &c. were read, from which it appeared that the petitioner solicited remuneration for losses sustained by him from the burning of his property by the enemy, during the late war, at Monday's Point, on the Virginia shore of the Chesapeake, which was occupied by the American troops commanded by the petitioner. A further sum was also claimed for the destruction of a house and store-house about five miles from Monday's Point, which were also burnt by the enemy on account, as was said, of cartridges and military preparations being found therein.

Mr. BALL moved to strike out the word "not" from the resolution which was appended by the Committee of Claims, so as to give it an affirmative character, and grant the prayer of the petition.

Mr. B., in a very able and eloquent speech, supported the claim of the petitioner. He examined the testimony that had been adduced to support it—expressed his conviction of the unquestionable character of the witnesses by whom the facts were proved; commented upon the principles advanced in the report of the Committee of Claims, with much humor and freedom; adverted to other claims of less desert that had been allowed; and made a forcible appeal to the magnanimity and justice of the House in favor of a patriot and a soldier.

The motion was also supported by Messrs. WILLIAM SMITH, NEALE, COLDEN, EUSTIS, and WRIGHT, and opposed by Messrs. WILLIAMS and McCoy, on the ground that the destruction of the property was a wanton act on the part of the British; that it was unjustifiable by the laws of nations; that the petitioner was in the same situation with thousands of others who had been rifled and plundered by the lawless depredations of the enemy—to indemnify whom would exhaust the Treasury.

Mr. RANDOLPH suggested, as a matter of form, that it would be more parliamentary to put the question upon a concurrence with the report of the Committee of Claims, instead of deciding the point upon the erasure of the word "not."

Mr. BALL did not consent to vary his motion.

The SPEAKER thought it expedient that such a practice should be introduced, and gave his reasons in its favor.

Mr. EDWARDS, of Connecticut, was also opposed to having the question put in the form it had been moved. A vote to erase the word "not" would be equivalent to a grant in full of the prayer of the petitioner, whereas gentlemen might be disposed to indemnify the petitioner for his losses sustained at Monday's Point, who would not be willing to indemnify him for the destruction of his property five miles in the interior.

Mr. BALL finally acceded to the proposition of changing the mode in which the question should be put.

The question was then taken whether the Committee of the Whole would concur with the Committee of Claims in this case, and it was decided in the negative. The Committee then rose and reported.

In the House, Mr. SMITH, of Maryland, moved to recommit the report to the Committee of Claims, to which, at the suggestion of Mr. METCALFE, was subjoined a direction to report a bill for the relief of the petitioner to the extent of \$2,765, to indemnify him for his losses sustained at Monday's Point, which was put and carried.

The House adjourned to Monday.

MONDAY, January 21.

Mr. SERGEANT presented a memorial of the Pennsylvania Society for promoting the abolition of slavery, relieving free negroes unlawfully held in bondage, and improving the condition of the African race; complaining of the continuance of the African slave trade notwithstanding the laws heretofore passed for its suppression, and praying that energetic measures may be taken at the present session of Congress, authorizing the President of the United States effectually to remedy existing defects, and utterly to exterminate this detestable and desolating trade; which memorial was referred to the Committee on the Suppression of the Slave Trade.

A message from the Senate informed the House that the Senate have passed the bill entitled "An act for the relief of Josiah Hook, jr.;" in which bill they ask the concurrence of this House.

Mr. MORGAN presented a memorial from sundry inhabitants of the city and State of New York, praying for additional encouragement by the Government in aid of domestic manufactures, by increasing the tariff imposing further restraints on sales at auction; which received its appropriate reference, and was ordered to be printed.

Mr. CAMBRELENG presented a memorial from sundry citizens of New York, remonstrating against the passage of a bankrupt law; which was referred.

Mr. CUSHMAN presented a memorial from sundry Revolutionary soldiers residing in the District of Maine and elsewhere, praying for such an alteration of the law relating to Revolutionary pensions as may extend the benefits intended to be produced by that law. In presenting the petition, Mr. C. observed, that, as it would be consoling to the aged veterans of the Revolution to acquaint the present generation with their services, their sufferings, and their achievements, he requested it might be printed. This mark of respect was due to their patriotism and valor. If we cannot relieve their distress, said he, we can at least soothe their wounds.—The petition was read and referred; but the House refused to print it.

Mr. WILLIAMS, from the committee to whom was referred the memorial of Eli Hart, praying compensation for property destroyed during the last war on the Niagara frontier, made an unfavorable report thereon; which was, on motion of Mr. TRACY, referred to a Committee of the Whole.

Mr. WILLIAMS, of North Carolina, from the same committee, made an unfavorable report on the petition of Gad Pierce, which was read, and, on motion of Mr. TRACY, referred to a Committee of the Whole. Mr. T. also moved to print this report, intending to bring the subject before the House; but this motion was opposed by Mr. RICH, and negatived.

Mr. WILLIAMS, from the same committee, made a report on the petition of Richard O'Brien, accompanied by a bill supplementary to the act formerly passed for his relief; which was twice read, and committed.

The bill for the relief of Josiah Hook, jun., was twice read, and committed.

Mr. RANKIN, from the Committee on Public Lands, reported a bill "for the relief of certain purchasers of Public Lands;" which was twice read and committed.

Mr. SLOAN, from the Committee on Elections, made a report, in part, on the credentials of members of the House, which was ordered to lie on the table.

Mr. HEMPHILL, from the Committee on Roads and Canals, reported a bill for the preservation and repair of the Cumberland Road; which was twice read, and committed.

Mr. FLOYD laid upon the table the following resolution:

Resolved, That the following be added to the forty-third rule of this House:

"And shall be taken up for consideration on the next day, in the order in which they were presented, immediately after reports are called for from select committees, and, when adopted, the Clerk shall cause the same to be delivered."

[This proposed amendment applies to resolutions "requesting information from the President of the United States, or directing it to be furnished by the Head of either of the Executive Departments, or by the Postmaster General."]

This resolve lies over one day, of course.

On motion of Mr. BATEMAN the resolution submitted by him, calling on the Treasury Department for information of the progress which has

JANUARY, 1822.

Post Office Department—Estimates of Appropriations.

H. OF R.

been made in the settlement of the accounts of the General Post Office, was taken up, and agreed to.

On motion of Mr. MOORE, of Alabama, it was

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of granting authority to Thomas Barton and Chapel Sledge to establish a turnpike road in the Creek nation of Indians, leading from the Uche bridge to the United States boundary line, on Line creek.

Mr. McCARTY submitted for consideration the following resolution :

Resolved, That the President of the United States be requested to inform this House whether any person has been employed by him to visit the Indian tribes on our borders ; and, if so, what was the purport of his commission, and what compensation has been allowed him for his services : also, whether any report has been made by this agent, and, if any, that he cause the same to be laid before this House.

The resolve lies over one day, of course.

On motion of Mr. SIBLEY, it was

Resolved, That the Committee on Public Lands be instructed to inquire whether any, and, if any, what, further amendments are necessary to be made to the act "to revive the powers of the commissioners for ascertaining and deciding on claims to land in the district of Detroit, and for settling the claims to land at Green Bay and Prairie du Chien, in the Territory of Michigan," passed the 11th day of May, 1820 ; and whether any, and, if any, what, other description of private claims to land within said Territory, ought to be provided for, and to what extent, and whether any provisions are necessary to be made for the survey of private land claims in said Territory.

Mr. TAYLOR, from the joint committee on the rules of joint proceedings, &c., made a report corresponding with that which was this day made in the Senate ; which was ordered to lie on the table.

POST OFFICE DEPARTMENT.

On motion of Mr. HOBART, the House then proceeded to the consideration of a resolution calling on the Postmaster General for certain information relating to the expenditures, &c., of that Department.

Mr. TRACY moved to amend the same by adding the words "and the amount paid in each of said years into the Treasury," so as to embrace that information in the call—which amendment was accepted by the mover as a modification of the original motion.

Mr. WALWORTH moved to amend the resolution, by including in it, also, a requisition of the names of all such deputy postmasters who may have failed to make returns or to pay over the balances in their hands, as have not been heretofore reported to this House. This amendment was further modified, on suggestion of Mr. ALLEN, of Massachusetts, so as to require, also, the amount for which the said postmasters are indebted to the Department.

Mr. BATEMAN moved to amend the amendment by adding to it a requisition for an account of the measures which have been taken by the Post Office Department to compel these returns.

Mr. HOBART objected to these amendments as

going to encumber, too much, his motion, the object of which was to obtain such information as should enable the House to see whether any further legislation was necessary to provide for the support, &c., of that establishment.

On motion of Mr. BUTLER, the resolution and amendments were ordered to lie on the table, in order to prepare a resolution in such a shape as should elicit all the necessary information on this subject.

THOMAS KEMP.

Mr. WRIGHT presented the petition of Thomas Kemp, which he introduced with the following remarks :

Mr. Speaker : I am requested to present the petition of Thomas Kemp, a ship carpenter of Maryland, who built the ships of war Erie and Ontario, in the port of Baltimore. I feel it due to candor to state, that this petition has been heretofore before the House in 1816, and then rejected. And, Mr. Speaker, while I have stated so much, as must form a lien on the mind of the House against the claim, I must claim their indulgence while I state the merits of the claim, and suggest the principles for the consideration of the House, on which I think it ought to be decided. This contract for the building of those ships was entered into in the Spring of 1813, and the prices, of course, regulated by the then state of those prices, intending merely to give to the ship builder a reasonable compensation for his materials and labor ; but soon after, the port of Baltimore was blockaded by the British, which cut off the communication, and raised the price of the materials fifty per cent. However, Mr. Kemp proceeded to finish the ships, which now ride in triumph under the American flag, commanded by their gallant commanders, while he is left unpaid the sum of \$6,223, the price actually paid by him for materials and labor, without pocketing one farthing for his services, to console himself with the honor of having built those ships. Sir, that the act of God, or the State's enemies, shall work an injury to no man, is a principle universally admitted, and lately acted on, in restoring to the late President his furniture, destroyed by the enemy by fire. The blockade of the harbor of Baltimore indirectly bore on this contract, and furnishes, in my judgment, a just ground for relief. Permit me to remark, that the payment of this sum will not impose the tax of one dime per head on the American people, on the one hand, while it imposes a loss of \$6,223 on an individual who had faithfully served his country.

The petition was referred to the Committee on Naval Affairs.

ESTIMATE OF APPROPRIATIONS.

The SPEAKER laid before the House the following letter from the Secretary of the Treasury, viz :

TREASURY DEPARTMENT Jan. 19, 1822.

SIR : I have the honor to transmit herewith, for the information of the House of Representatives, an estimate of appropriations, proposed for the service of the year 1822, amounting to \$8,891,285 48.

H. OF R.

Uniform System of Bankruptcy.

JANUARY, 1822.

For the Civil List - - -	\$868,603 42
For Miscellaneous Expenses - -	456,375 00
For Foreign Intercourse - -	148,000
For Military Department, including pensions, arming the militia, Indian department, and arrears - - -	5,165,896 19
Naval Establishment, including the Marine Corps - - -	2,252,410 27
	<hr/>
	\$8,891,285 48

The funds from which the appropriations for the year 1822 may be discharged, are the following, viz :

1st. The sum of six hundred thousand dollars annually reserved by the act of the 4th of August, 1790, out of the duties and customs, towards the expenses of Government.

2d. The surplus which may remain, of the customs and arrears of internal duties and direct taxes, after satisfying the sums for which they are pledged and appropriated.

3d. Any other unappropriated money which may come into the Treasury during the year 1822.

I have the honor to be, &c.,

WILLIAM H. CRAWFORD.

HON. SPEAKER, of the

House of Representatives.

UNIFORM SYSTEM OF BANKRUPTCY.

On motion of Mr. SERGEANT, the House then resolved itself into a Committee of the Whole on the bill to establish an uniform system of bankruptcy.

The first section of the bill being under consideration—

Mr. SERGEANT addressed the Chair. The subject of this bill, he said, had received an unusual share of the attention, not only of the public, but of the members of the House. Its principles were so important, and so deeply interesting to the commercial world, that it was hardly surprising that it should have become an object of national concern. Although he had the honor, as chairman of the Committee on the Judiciary, to report the bill, yet, he said, he had no particular information on the subject that was not common to other members of that body. It was a matter that had been discussed, not only in the halls of legislation, but in newspapers, pamphlets, and circulars, of every description. There was scarcely any subject that had engaged more of the public attention ; and he doubted not that it would be examined on both sides with that deliberation which was due to its nature and importance, and the discussion of it he hoped would terminate in a manner that was called for by the best interests of the country. It was not a matter of idle speculation. It was looked to, on the one side, and on the other, with anxious solicitude by all ; and whilst some were apprehensive of its consequences, others regarded it as a most necessary and salutary measure. The bill before the House, Mr. S. remarked, was meant as a matter of experiment ; its duration was limited to the period of three years. It would then cease its operation unless all branches of the Government should concur in re-enacting it. By withholding

its sanction, either of the co-ordinate branches would then have the power of a virtual repeal of it, if, in their opinion, experience had given judgment against it. Such an experiment seemed to him to be due to the Constitution of the United States, which gives expressly the power of making such a law. Not indeed that such enactment is imperative upon the Congress, but under such a state of things as now exists—and a stronger one in relation to the Constitutional provision, could not have been contemplated by the framers of that instrument—it did not seem to be a duty imposed upon Congress to try its effect under the sanction of the Constitution. He could say, and safely say, that a large body of unfortunate men, in whose favor the bankrupt law was expected to operate, existed in the community, whose case called loudly upon this House to exercise the power given by the Constitution. And they surely called with great strength, if they could point to that instrument and say, the Constitution provides for us a remedy, which you, who exercise the power, neglect to apply. In relation to the great subject before the House, there were perhaps three classes of opinion among those by whom the decision was to be made: 1st, those who were in favor of the law ; 2dly, those who were against it ; and 3dly, those who, coming from districts not immediately and essentially affected by its provisions, are in a measure indifferent to its adoption, and uncommitted by the frequent arguments that have been raised upon it. To the latter class he would more particularly appeal—and he would seriously ask, whether such an experiment was not due to humanity and to policy ? Was it not due to the unexampled numbers and sufferings of this description of men ? There were more insolvent debtors in this country at this time, he said, than at any former period—and a greater proportion, too, of such debtors who were so innocently, by the unforeseen disasters of the times. By a rapid transition, we had passed from a period of unexampled prosperity, to a different state. He would not now undertake to describe the present condition of the country. It might, however, be said, with truth and safety, that the class of insolvent debtors now existing is not composed of fraudulent men, or of men who were destitute of common prudence. They have become bankrupt by the occurrence of events against which human foresight is too limited to guard. The best men in society are among those who have been bowed down by debt, and cut off from hope or relief by the laws ; and so universal and desolating has been the sweep of misfortune, that there must be few indeed, even in this House, who have not seen and deplored it. To this Congress, then, they make their appeal. Here is the Constitutional depository of the power to redeem them ; and they come strengthened with the argument that they can look no where else for relief. The States, who know their disasters and witness their sufferings, have not the power to relieve the unfortunate debtors. They have attempted it, but in vain. New York, Rhode Island, and Louisiana, convinced of the necessity and policy of the measure, have successively enacted

JANUARY, 1822.

Uniform System of Bankruptcy.

H. OF R.

such laws; but they have been declared unconstitutional, and the last hope of the unfortunate debtor is suspended upon the bill on the table.

This bill, however, Mr. S. argued, does not confine its operation to relief of the debtor only. It also provides for the security of the creditor. Among the friends of the principle and object of the bill, Mr. S. went on to say, there would probably be a difference of sentiment in regard to its details. On this point he would only observe, that it had heretofore undergone much discussion and examination, particularly by those who had had the subject most in contemplation, and who were most anxious for its passage. If it had important defects, its friends would naturally be disposed to avoid them. For himself, he should not be tenacious in any part of the details, provided the important, cardinal points of security to the creditor, and relief to the debtor, could be preserved. With respect to the debtors, the bill contemplated but one description of them, viz., merchants. Should the bill, if passed into a law, be found beneficial in its operation, its provisions might be extended as the wisdom and discretion of the Legislature might direct. With respect to creditors, all were embraced. Mr. S. adverted to the prominent characteristics of this bill, and remarked that, although it was of an adversary character, yet he should not oppose any proper provision that might extend its operation to cases where, by mutual consent between the debtor and creditors, the benefit of its provisions may be mutually obtained. The motive for giving it an adversary character was exclusively for the benefit of the creditor. Under the present system, or rather want of system, in commercial affairs, the insolvent has the entire power to control the direction of whatever funds he may allot to the payment of his debts. He is, in fact, intrusted with the sole disposal of his property, and may give it such direction as caprice or conscience, hate or affection, policy or principle, may prescribe. The first question, therefore, to be determined, was, whether it was expedient to take the estate out of the hands of the insolvent, and to place it in the hands of others, for the benefit of his creditors, to whom it of right belonged, or to leave it in his hands, subject to his exclusive control and direction? On this subject Mr. S. could appeal with safety to all who resided in or near a commercial community, to say what was the expedient course in regard to the effects of a failing merchant? It was a question of easy solution, in which the creditor was, perhaps, more interested than the debtor. The relation of debtor and creditor, Mr. S. observed, was deeply interesting to all classes of society. To the creditor, the constituted authorities were bound to perform the duty of justice. To the debtor was superadded to that of justice the duty of humanity. Peculiarly was this the case in a country which professed to be a government of laws, where the rich and the poor yielded an equal obedience and support to the laws, and were equally entitled to their protection. It was a country of freedom, where all who participated in its conflicts were entitled to participate in the happiness those conflicts had se-

cured. Our Government was established, not to aggrandize the lordling, and spread its glory by trampling in the dust the child of misfortune; but for the nobler purpose of giving equal security to the peasant who sleeps on straw, and to the wealthy satrap who reposes on down. The blessings of our Constitution reach beyond the palace. They enter the humble shed; they cheer the heart of the wretched with consolation, and buoy it up with hope. They redeem himself and his children from bondage, and cast their reflection upon the domestic fireside. The once prosperous citizen looks to his family—to his social circle—to the delights of better days, which no act of folly or injustice have justly required the forfeit of; he looks with ardent gaze at the Constitution of his country, and he turns to ask you, shall these blessings be lost without crime, and the ignominy of imprisonment be incurred without fault? Shall the creditor incarcerate his debtor at pleasure; shall the dominion of dollars and cents give him the power to say that there he shall live—there he shall die—and there he shall be buried? In that gloomy abode he hangs no longer on the skirts of mercy. Hope is bounded by payment, and the limit of grace is the balance of the ledger. It is, indeed, easy to say to the debtor, why did you ask for credit? And to the creditor, why did you give it? But it was not equally easy to practise on the inquiry. Commerce is carried on upon the principle of credit. It is uniform and universal throughout the civilized world. To depart from it, in particular cases, might excite derision, but would rarely impart confidence, or the authority of example.

The bill under consideration, Mr. S. contended, had a strong bearing upon our public morals and national reputation. The public morals required that the disposition of insolvent estates should not be left to their own management, unawed by restraint, and unchecked by law; and that our national reputation required the enactment of such a body of laws as should secure to the creditor an equal participation in the effects of an unfortunate debtor. Wise and fit, therefore, it was that the Constitution of our Government should give the subject its special notice. Every civilized commercial nation, within his knowledge, had made provision of this sort. It had been done peculiarly for the security of the creditor; and it was matter of special observance that, at this moment, an absent merchant in the United States is in a worse situation, both creditor and debtor, than he would be in England, Scotland, Ireland, Holland, France, or Spain. It was also worthy of remark, that no nation that has been known ever once to adopt a bankrupt system, possessed of these cardinal qualities, has ever abandoned it afterwards. There is a remarkable coincidence also in these laws of the several nations. They come to the same result. However they may differ in their political institutions—in their systems of foreign relation or internal government and police—yet they agree in this, and particularly in the main cardinal points of this bill—the security of the creditor, and the relief and liberation of the debtor. The bankrupt law of Spain was enacted in 1737, almost a century ago.

It differs in the mode of proceeding from the bankrupt law of England, but the cardinal points in view are precisely the same. If two-thirds of the creditors in number, and one-half in amount, or one-half in number and two-thirds in amount, agree upon any principle of exoneration with the debtor, the rest of the creditors are bound by the compromise. So it is also in Holland; the example of which country must necessarily carry with it a greater authority than that of Spain. The Dutch have long been distinguished for their industry and wealth. No nation has better understood the principles of trade; and their sober habits, enterprise, and commercial integrity, have entitled them to an eminent rank in the history of nations. It is not until within ten years past that they have had a bank of discount and deposit among them. A bank of deposit they had; but a bank of discount was unknown to them. Their law, like that of Spain, permits the major creditors in number and value, in like manner, to enter into a compromise that shall bind the minority. The bankrupt law of England, Mr. S. observed, was well known to all; it required neither comment nor illustration. Having been enacted so early as the year 1542, in the earliest days of commerce in that country, when the principles of government and trade were little understood, it was not surprising, although it was unfortunate, that principles and imperfections were infused in its early progress, that have grown with its growth, and materially injured its subsequent usefulness. Under all its disadvantages, however, its operation had been salutary, and it was not now the intention of that Government to expunge the system, but only to limit and define it. So harsh, and unjust, and inhuman, was the law in the beginning, and so exclusively was it calculated and intended for the benefit of the creditor, that, after stripping the debtor of all his property, it consigned his body over to the creditor's mercy. Thus the law continued until the beginning of the last century. It was then found and understood that man was to be dealt with as a moral being; that, if he was affected by passion, he was also influenced by feeling; that he was operated on by motive, and that moral suasion might be resorted to with happier effect than the sturdy force of inflexible law. Mr. S. was not about to pass an encomium on the intelligence, industry, and prudence, of the British nation. Whatever it was, it was known to all; and the operation of the bankrupt system in that country required neither argument nor illustration. Ireland had no bankrupt law until 1770. They had been acquainted with the English bankrupt law for three centuries—and fifty years ago, long previous to the Union, they enacted a system of their own, which continues to the present day. Scotland had only a partial bankrupt law till the year 1793. It was continued until 1814, when its provisions were improved and extended, and is now the law of Scotland.

Mr. S. was proceeding in his remarks on the subject, when the debate was interrupted by a message from the Senate; after the delivery of which, (the usual hour of adjournment having arrived,)

on motion the Committee rose, reported progress and obtained leave to sit again.

TUESDAY, January 22.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to which was referred the petition of Russell Baldwin, reported a bill to remit the duties imposed on a sword imported for Captain Thomas Macdonough, of the United States Navy; which was read twice, and committed to the Committee of the Whole.

Mr. SMITH, from the same committee, also reported a bill for the relief of Solomon Porter, jr.; which was read twice, and committed to the Committee of the Whole.

Mr. CAMPBELL, from the Committee on Private Land Claims, made a report on the petition of the heirs of John Girault, deceased, accompanied by a bill for their relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. NEWTON, from the Committee on Commerce, to whom the subject had been referred, reported a bill to fix the limits of the port of entry and delivery for the district of Philadelphia; which was read twice, and ordered to lie on the table.

Mr. SERGEANT, from the Committee on the Judiciary, reported a bill for the establishment of a Territorial government in Florida; which was read twice, and committed to a Committee of the Whole.

The Committee of the Whole to which is committed the bill from the Senate entitled "An act for the relief of Josiah Hook, jr.," were discharged, and the said bill was referred to the Committee of Claims.

On motion of Mr. FLOYD, the House proceeded to consider the resolution submitted by him yesterday, proposing an amendment to the rules of the House; and the said resolution being read, was modified and agreed to, as follows:

Resolved, That the following be added to the 43d rule of this House, to wit: "And all such propositions shall be taken up for consideration on the next day, in the order they were presented, immediately after reports are called for from select committees; and, when adopted, the Clerk shall cause the same to be delivered."

The said 43d rule, as thus amended, is in the words following, viz:

"43. A proposition, requesting information from the President of the United States, or directing it to be furnished by the head of either of the Executive Departments, or by the Postmaster General, shall lie on the table one day for consideration, unless otherwise ordered by the unanimous consent of the House; and all such propositions shall be taken up for consideration in the order they were presented, immediately after reports are called for from select committees; and, when appointed, the Clerk shall cause the same to be delivered."

The SPEAKER laid before the House a letter from the Secretary of War, showing the application and expenditure of the sum of \$30,000 appropriated by the act of the 11th of April, 1820, for the pur-

JANUARY, 1822.

Indian Affairs—Public Lands in Illinois.

H. OF R.

pose of holding treaties with the Creek and Cherokee tribes of Indians; which was read, and ordered to lie on the table.

The SPEAKER also laid before the House another letter from the Secretary of War, transmitting a statement showing the expenditures of the moneys appropriated for defraying the contingent expenses of the Military Establishment for the year 1821; which was referred to the Committee of Ways and Means.

On motion of Mr. WILLIAMSON, the House agreed to consider his resolution, offered yesterday, calling for information from the President, relative to the Northeastern boundary of the United States; and the resolution was thereupon adopted.

On motion of Mr. CONDUCT, the Committee on the Public Lands were instructed to inquire into the expediency of reorganizing the several land districts in the United States, and of diminishing the existing number of land offices.

On motion of Mr. McCARTY, the House agreed to consider his resolution of yesterday, relative to Indian expenditures, which was adopted.

On motion of Mr. CAMBRELENG, the House also agreed to consider his resolution of yesterday, on the subject of the Bank of the United States; and after some remarks by Mr. RANDOLPH and the mover, the resolution was adopted.

On motion of Mr. BURTON, the Committee on the Judiciary were instructed to inquire into the expediency of amending the law making the records and judicial proceedings of the several States, evidence in each particular State.

INDIAN AFFAIRS.

The following Message was received from the PRESIDENT of the UNITED STATES:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives "requesting the President of the United States to cause to be laid before this House an account of the expenditures made under the act to provide for the civilization of the Indian tribes, specifying the times when, the persons to whom, and the particular purpose for which, such expenditures have been made," I herewith transmit a report from the Secretary of War.

JAMES MONROE.

WASHINGTON, Jan. 20, 1822.

The report of the Secretary of War is as follows:

WAR DEPARTMENT, Jan. 19, 1822.

The Secretary of War, to whom was referred the resolution of the House of Representatives, of the 31st ultimo, "requesting the President of the United States to cause to be laid before the House an account of the expenditures made under the act to provide for the civilization of the Indian tribes: specifying the time when, the persons to whom, and the particular purpose for which, such expenditures have been made," has the honor to transmit the enclosed statement, which contains the information required by the resolution.

The Secretary of War would respectfully refer to the report made by this Department to the House of Representatives, on the 15th January, 1820, in compliance with a resolution of that House, of the progress that had been made in the civilization of the

Indians, which, with the regulations, a copy of which accompanies this report, will indicate the principles upon which the several allowances for buildings and tuition, referred to in the statement, have been made.

It may be proper to observe, that, by a rigid construction of the rules adopted for the expenditure of the appropriation, the schools at Cornwall, in Connecticut, and Great Crossings, in Kentucky, would appear to be excluded from any benefit from it. It was believed, however, as there was not a sufficient number of schools in the Indian country at the time the allowances were made, to absorb the whole appropriation, that it would advance the object of Congress in passing the act, to include them in the distribution.

All which is respectfully submitted,

J. C. CALHOUN.

To the PRESIDENT of the U. S.

The Message and report were ordered to lie on the table and be printed.

PUBLIC LANDS IN ILLINOIS.

Mr. COOK submitted the following resolution:

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of authorizing the settlers on the public lands in the State of Illinois to preserve and gather their crops, after the lands may be sold by the United States, at public sale, where such settlers do not become the purchasers. Also, to inquire into the expediency of establishing an additional land office in the State of Illinois.

Mr. SMITH, of Maryland, inquired of the mover how many land offices there were in Illinois.

Mr. Cook answered five.

Mr. SMITH. And does the honorable member want six? Mr. S. thought the land offices in the Western States were sufficiently numerous already.

Mr. Cook remarked, that there were seven or eight in Ohio, and adverted to the large tracts of rich and fertile lands in the State of Illinois, which it was desirable to sell, and which the purchaser could not obtain without going a great distance to some of the land offices. It was not to this part of the resolution, however, to which his anxiety was principally directed. The first branch of it, that is calculated to secure to the cropper the fruits of his labor, when penury deprives him of the means to purchase the soil, was to him an object of primary solicitude.

Mr. WILLIAMSON called for a division of the question.

Mr. McCoy was opposed to both branches of the resolution. The tendency of the first was to encourage squatters upon the public lands; and of the second, to extend the number of land offices, which, in his opinion, ought rather to be reduced.

The first branch of the resolution was further opposed by Messrs. WOOD, RANKIN, and MALLARY, and supported by Mr. COOK, when the question was taken thereon, and lost.

The second branch of it being under consideration—

Mr. CONDUCT moved to amend the same, so as to authorize the Committee on the Public Lands to extend their inquiry so far as to examine into the expediency of discontinuing land offices; but before any question was taken thereon, the resolution was withdrawn by the mover.

H. of R.

The Bankrupt Bill.

JANUARY, 1822.

BANKRUPT BILL.

The House then resolved itself into a Committee of the Whole on the unfinished business of yesterday—the Bankrupt bill.

Mr. SERGEANT resumed his remarks; and begged the indulgence of the House for a few further observations on the subject. The discussion of yesterday, in his view, had led to this result—that the whole of the civilized world, so far as it was commercial, had adopted, with some modification or other, a bankrupt law; and that, whatever modification those nations had provided, the two principal points to which he had alluded were regarded, viz: security to the creditor and relief to the debtor. He did not mean to be understood that there were not specific differences among those laws between the several nations. In respect to the administration of those laws the differences were considerable; but, after all, the conclusion seemed to be fixed, and that by the common consent of nations, that, where there was commerce, there a bankrupt law must be—not only as a necessary, but as a salutary measure. This consideration was fortified by the fact, that the framers of the Constitution of the United States, foreseeing the destinies of our country, made this special provision—believing, as they doubtless did, that such a provision would be found essential as the commercial resources of the nation should be developed and expand. In the nations of Europe to which he had referred other things had changed. Their external relations and their internal government had varied with successive sovereigns; but the principles of this law had remained unshaken. The English bankrupt law was first established under the reign of Henry VIII., at a time when commerce was just springing into life. During the various political commotions—the struggles of party and the ascendancy of faction—this law, instead of being destroyed, had gathered strength and improvement with the progress of time. It had survived the stormy period of the Commonwealth—the usurpation of Cromwell—the restoration of Charles II.—and the revolution of 1688, that placed the House of Orange on the throne of England. In France, it was enacted prior to the revolution. It subsisted during the period of that tempest—was unrepealed by the fluctuating councils of the republic—by the Emperor Napoleon—and is at this time, and ever has been, the law of France, since the restoration of the Bourbons. Before the revolution in France, it is well known that commerce was in a degraded state. It was considered a disreputable employment; and it is rather a matter of surprise that it was carried on at all, than that it should have received any sanction from the Government. It is probably owing to the degradation of trade that we find in the first stages of the bankrupt law such severe enactments, and such an uniform confounding of criminality with misfortune. The Code Napoleon mitigated this severity, and restored to commerce, in a measure at least, that consideration to which it was entitled. The Dutch law on bankruptcy was enacted before Napoleon had placed

his brother on the throne of Holland. The Code Napoleon and the bankrupt law had since been adopted in that country, and were now in operation. All these nations, in the different periods, had concurred in the sentiment, that the failing merchant should be arrested in his career, and his property placed in proper hands for the benefit of his creditors. There were specific differences among the various nations, as to the proportions and numbers of the creditors, whose opinion, in regard to the effects of the debtor, should control and bind the rest. In England, it was three-fifths; in Scotland, three-fourths; in Ireland, the same as in England; in France, a majority in number, being three-fourths in amount; and in Spain and Holland, two-thirds of the creditors in number, and one-half in amount, or one-half in number, and two-thirds in amount. Mr. S. also adverted to the different operations of the bankrupt law in the respective nations, and the effect which the acts of the major part of the creditors had in binding the minority and releasing the debtor. It seems, said he, that the common sense and common justice of mankind had conferred on this subject, and that their united wisdom had produced an uniform result. It might be said that the example of England, and France, and Spain, were entitled to little weight in testing the principles by which a republic should be governed. So far as it applied to principles of government, he would cheerfully admit that those nations were to be regarded rather as beacons to avoid than as examples to follow. But in pecuniary concerns, that had no connexion with politics, he thought their example, uniform as it had been, carried with it great weight and consideration.

But it was time to turn from the Governments of other nations to that of our own. When far off, it was discoverable only as an unit. It gathered magnitude and importance the nearer we approached it; but it was not until we came in view of the domestic and social relations, that its deep and lasting interests were felt and regarded. It was there that the want of such a system was peculiarly and distinctly seen. When the unfortunate and unhappy merchant was left without resource and cut off from hope. When he was surrounded by a family that Providence had made dependent upon him, and at the same time found himself not only unable to supply their wants, but, perhaps, shut up in a prison, with the power of society acting upon him. To relieve calamities like these, the States had sometimes interposed. Mr. S. alluded particularly to the bankrupt law of Pennsylvania, which was made in 1785, before the adoption of the Constitution of the United States. It was then the most commercial State in the Union, and the law continued until 1793, when it expired by its own limitation. The power over the subject-matter was supposed to be transferred to the Government of the United States. Mr. S. referred particularly to the preamble of that law, which he read in his place, as containing the reasons which led to its adoption, and which must be admitted to be cogent in all commercial communities. There was probably as strong a moral

JANUARY, 1822.

The Bankrupt Bill.

H. OF R.

sense and as much intelligence in the State of Pennsylvania in 1785, as there is at present, and yet the law continued in force eight years, and its operation had been regarded as salutary to the people of the State. Unlike the severity of the British law, the law of Pennsylvania did not consider the debtor as necessarily criminal because he had been unfortunate. It was adapted to the circumstances of the State, and to the opinions of the age. The enactment of a bankrupt law in the individual States was not peculiar to Pennsylvania. It had been resorted to, also, in the State of New York—now the largest and most commercial State in the Union. They long kept what was called the three-fourth act, a sort of bankrupt law, but which the Supreme Court of the United States declared they were not competent to make. In Rhode Island and Maryland laws of the same description had been long since enacted; and in the State of Louisiana—a new commercial State—a bankrupt law was enacted in 1808, but was condemned as unconstitutional by the Supreme Court of the United States, in the case of *McMillan vs. Minn.* It yet remains upon the statute book of that State. Its principal features were taken from the Spanish law, but it is now a dead letter. How many other States had endeavored to provide such a remedy, he (Mr. S.) could not pretend to say; but it was evident there were the same feelings and sentiments in the United States, as in the other parts of the world. In this country there seemed to be a peculiar necessity and propriety in adopting such a law. Commerce, so far from being disreputable, was considered as an honorable employment. It was useful, and favored by the Government. But the profession was exposed to hazards. There were accidents and disasters which human sagacity could not foresee, and against which human prudence could not guard. If there was no redemption, therefore, by public law, the merchant might be deemed perpetually liable to ruin, in its most extended sense. Nor are himself and family only involved in it. It may extend to all those to whom he is indebted. Whoever has often seen mercantile failures, knows that there is a sort of blindness or infatuation that seems to affect them. The insolvent is unwilling to penetrate his situation, or to believe it as hopeless as it really is; and hence he lingers with some chimerical, undefined hope, till his affairs have become more deeply involved, and his embarrassments utterly irretrievable. He is perhaps the very worst person that could be selected to judge of his own affairs. He is led by the delusion to keep up his credit as long as he possibly can; and yet to him is confided the uncontrolled power of disposing of his estate. He may waste it, destroy it, or put it beyond the reach of his creditors, and when he comes to the final step of an assignment, he has then the power to make his preferences, and to provide for the circle of his friends, while his distant creditor, perhaps equally meritorious, is left without redress or hope of payment. What is the consequence? It is now become an usage, so common as almost to have acquired the force of law, that endorsers and lenders of money are first

to be paid. What but this has created the fictitious capital so deeply felt and deplored throughout this country? What but the loan of names, by which a credit is obtained, and money drawn from a bank? And yet, in case of insolvency, these persons, who by lending their names, create the evil, and enable the fictitious capitalist to borrow money, and thereby hold out false colors to decoy the unwary, are first to be paid; and perhaps the very goods that were sold to him on a credit, bottomed upon the loan, are sold at auction after the insolvency, to repay the loan, that lured the vender to sell. That these are evils will not be denied; but would a bankrupt system correct them? Mr. S. believed it would. It would distribute the effects of the debtor equally among his creditors. It would cut off undue preferences, pay to all their proper proportions, and stop the bankrupt from appointing his own assignees, and from prescribing terms to his creditor.

Mr. S. then adverted to the operation of the certificate of discharge, which would doubtless be in the minds of all. Its operation, he admitted, would be to cut off the creditor from all future claim. But he would try this, as a practical objection, and test it by experience. He would ask the question, what is the value of a claim against a failing creditor now, after an agreement has been made and acted on? Precisely what it would be after a certificate of discharge was given. After an assignment the debt subsists—so it does after a certificate of discharge. The moral obligation remains unextinguished; and it has been held in the courts of law, that, upon a new promise to pay a debt, after a certificate has been obtained, is a sufficient consideration to support the action. The certificate doubtless bars the legal claim, but if the sense of honor will induce a man to pay after an assignment, it will be equally operative after a discharge. It is notorious that society draws a line of distinction between debts created before and after a failure; and the payment of debts after assignment creates as much surprise, and is marked with as much emphasis, as if it had been done after a discharge. This consideration had, in his opinion, been greatly overrated, and more importance was attached to it, than experience would warrant. It was not only private creditors, however, but the Government also, which was interested in the adoption of the law. He alluded to the collection of the revenue. In case of death or public bankruptcy, where the property is subject to a dividend pursuant to law, the Government is entitled to a preference. But the case is otherwise where the failing debtor takes the law into his own hands, becomes his own commissioner, and makes such preferences as his own will and pleasure may dictate. In this way the Government may lose, and has already lost, very great sums of money. Mr. S. would not undertake, at this time, to anticipate the various objections that might be raised to the bill. Some had thought that, because it contained within itself severe enactments against fraud, that it presupposed it productive of fraud. If he (Mr. S.) thought it was calculated to generate fraud,

he would by no means support it. But it was not obvious that a bankrupt law was more liable to frauds than other modes of coercing payment. Was it an objection to an execution, obtained by ordinary process of law, that the debtor may be guilty of fraud to evade it? It was so liable, Mr. S. contended, as the practice that now prevailed, where the bankrupt was left to make the law for himself. In the way in which the examinations were taken in England, great and frequent fraud were unquestionably practised. This was owing not so much to the bankrupt law, as to the growth of crime in that kingdom. The root of the evil was in the state of society. The Lord Chancellor has the sole cognizance and direction of the law throughout the realm. The examination is *ex parte* and in secret, and the merchant is ignorant of the proceeding till he finds his name in the gazette, published as a bankrupt. If he then wishes to contest the legality of the commission, he must petition the Lord Chancellor to avoid it. No such provision was to be found in the bill before the House; and it was strange indeed that it had ever obtained among the enlightened jurists of England. Another mischief arose in the administration of the bankrupt law in that kingdom, in relation to what were called country commissions; or such as arose out of the city of London. In those cases the commissioner was appointed by the solicitor; here he is appointed by the President of the United States. There the business was transacted without regularity, in the midst of noise; and the commissioner at one table would perhaps turn round and be a solicitor at the next; but no such mischief could exist under this bill. Another appalling objection had been, the cost and expenses of an English commission. It was indeed enormous—but so were all their modes of justice, and particularly all their chancery proceedings. It had been also said, that bankruptcies occasioned delay; but it was difficult to conceive that there should be more delay on this case than under a voluntary assignment. The weightiest argument, however, and that which seemed to have sunk deepest into the minds of the people against the bill, was the operation of the law of 1800.

Mr. S. here took occasion to advert to what he believed had proved, in its effect, the strongest argument, with many persons, against the passage of a bankrupt law, viz: The unpopularity of the former bankrupt law, which, he argued, ought to be attributed to circumstances not really affecting the merits of that system. The law establishing it passed in the year 1800, and was limited, in its duration, to the year 1806, but was repealed in December, 1803; so that time was not allowed for a fair experiment under it. The law was passed, too, at a time of as great party excitement as ever existed in the United States; it made its appearance in the midst of the ferment occasioned by other measures; and the bankrupt law of 1800 is never thought of by many without associating it in idea with other measures of that day, which had no necessary connexion with it. It came into existence amidst the storm of angry passions rush-

ing over the land; and from the moment it made its appearance, as the two parties brought every thing to a party test, it had one of these parties for its friends and another for its enemies. From this circumstance, a prejudice had arisen against a system of bankruptcy, which ought not now to have any weight, it not having now any party aspect. The objections, in general, which were made to this bill, Mr. L. went on to argue, applied with equal force to the existing systems in the United States, which were as fertile in frauds and in litigation as this system could be supposed to be. What, he asked, was the attachment law of some of the States? What was that of Pennsylvania, which had been on the statute book for many years? It was an imperfect mode of attempting the same thing which a bankrupt law would more perfectly accomplish. The necessity was felt, in that State and elsewhere, of some mode of laying hold of the property of those who show, by secreting their property, or by absconding, that they are in the act of failing. In Massachusetts, also, there is an attachment law, the import of which he did not precisely know. There was one in New York, too, which he understood authorized the creditor to seize on all the effects of the absent or absconding debtor. Mr. S. here quoted the provisions of the law of Pennsylvania, authorizing, among other things, that, on the debtor's concealing himself, a general warrant may issue, &c. This, Mr. S. said, was the very act which was supposed to be so alarming in the bankrupt law, but which in that law, as well as in the State laws, was intended to prevent fraud and litigation, &c. He anticipated the argument that, if the States could pass such laws, it was not necessary for Congress to act upon the subject, by saying, that the State laws would neither be uniform nor general in their operation, being confined to the limits of the respective States, &c., and therefore could not be an efficient substitute for a system of bankruptcy. The fact, however, that means precisely the same were employed by the States, to the extent of their power, as those now proposed to be made general and uniform, by an act of Congress, went far to answer that objection to this bill.

Some there are, Mr. S. continued, who say, that a debtor ought never to be discharged but with the assent of all his creditors—that once a debt should be always a debt, unless with the assent of the creditor. If it were simply a question, Mr. S. said, between debtor and creditor, and no other person were concerned, this argument would go to a greater length than it now does. But, society has an interest in it, inasmuch as it is the interest of society that every man be able to maintain himself and family, &c. Could it be possible that any one would seriously maintain, that under no circumstances would it be competent or proper for the Government to interfere between creditor and debtor, and, when a certain state of things shall have arrived, to discharge the debtor? Every advantage is given to the creditor of arresting the person and laying hands on the property of the debtor. But, when it was become evident that

JANUARY, 1822.

The Bankrupt Bill.

H. OF R.

the debtor had given up every thing in his power; that, in the condition in which he is placed, he can neither be serviceable to himself or to others, and may, indeed, be dangerous to society, whilst, in different circumstances, he might be a valuable member of the community, would gentlemen, Mr. S. asked, contend that the creditor should forever have it in his power to hold him in durance, &c. To prevent this was one of the great objects of a proper system of bankruptcy.

What can the bankrupt do under these circumstances? He is indebted to a large amount. He has no discharge, no exemption. If he rises, it is but to fall. If his friends assist, their advances and his own earnings are swept away before he is able to repair his fallen fortunes. If he struggles to extricate himself, he sinks under the load, and retires broken-hearted and forlorn, without even the comforts of hope to sustain him. If this alternative of wretchedness is not experienced, there is another that inevitably follows, if possible still more to be deplored. This is the covering of property under the names of others. Gentlemen who have travelled must often have seen on the stores of merchants signs with the name of a merchant, and "A. B., agent." The agent is in reality the principal, while the professed principal has no real interest in the concern. But we are told that debtors will not be oppressed, and that creditors are benevolent. Mr. S. would admit there was as much benevolence among the creditors in this country as in any part of the world; but all history and experience had shown that there was a small minority in every class of this sort who were of a different description. Bankrupt laws are founded on the principle that a majority of the creditors are benevolent; and hence it is, the law should secure to them the benefits they ought to receive. It fortifies the argument, that when a majority say that the debtor has been honest and fair, he shall be relieved by their benevolence. Mr. S. then adverted to the ineffectual, imperfect, and partial operation of the insolvent acts of the respective States, and urged that now was a proper season in which to make a law so necessary and humane. The storm beneath which so many worthy men had fallen, had passed by. The face of the world was gladdened with smiles to all, save to the unfortunate debtor. He is the only exception—the only being who, however deserving, must bear the brunt and pressure of hard times, without a prospect of relief. There was also a great national consideration involved in the question. He alluded to the necessity of local legislation that would become necessary if this relief was not extended. Jealousies and collisions had been already excited between the General and State Governments; but, by granting the relief proposed by this bill, many dangerous questions may be removed. He was aware this was delicate ground. He should give no opinion upon it, further than to suggest it to the serious consideration of the House. Mr. S. expressed his unwillingness to trespass further upon the patience of the Committee, and regretted the subject had not fallen into abler hands, to do it that justice which

his own health forbade, but which the important nature of the question required.

Mr. STEVENSON rose to submit a motion, which was to strike out the first section of the bill. He purposed to express his sentiments on the question, but he wished to have the question fairly and fully discussed; and the object of his motion would be, to try the sense of the House on the principle of the bill, and if it should appear that a majority was in favor of legislating on the subject, it would then be desirable to unite in making the details as perfect as possible.

Mr. SERGEANT expressed his assent to that course; and the hour of adjournment having passed, Mr. STEVENSON moved that the Committee rise, and report.

Mr. WOODSON then rose, and said the able and eloquent appeal by the gentleman from Pennsylvania, in behalf of the mercantile class of the community, is most honorable to the feelings of his own heart, and they are such as will be responded to by those of the nation. It is only to be lamented that they are not sufficiently comprehensive; that they do not attach themselves to that description of persons justly and emphatically termed the bone and sinew of a Government. My allusion to the agricultural portion of the community cannot be mistaken. Ought our sympathy for them to sleep? Is the voice of humanity to be silent or unheard when it cries for their relief? Are we called upon to legislate exclusively for the mercantile interest? Would this be just? Can it be within the spirit or letter of our powers on this subject? I believe not. The authority to establish a uniform system of bankruptcy excludes the idea. It could not be intended to confine its necessary and salutary provisions to a privileged few. That others require and merit the interposition of their Government, is evident to my mind; and that the proposed amendment ought to be adopted, I shall hereafter, with the indulgence of this Committee, use my feeble efforts to show.

Mr. STEVENSON waived his motion to rise and report; whereupon Mr. WOODSON submitted the following amendment:

"That all classes of the community, other than the description of persons before mentioned, shall have the privilege, at their election, of becoming voluntary bankrupts, with the consent and approbation of a major part in value of all the creditors of such voluntary bankrupt, previously obtained and duly certified. And that such bankrupt shall be subjected to the same proceedings, and liable to the same penalties, fines, and forfeitures, and be entitled to all the privileges, benefits, and advantages, as are provided for, and made applicable to, all other bankrupts, by the regulations of this bill."

On motion of Mr. SMYTH, the Committee then rose and reported, and obtained leave to sit again.

In the House, on motion of Mr. COOK, the amendment was ordered to be printed, and the House adjourned.

WEDNESDAY, January 23.

Mr. MOORE, of Alabama, presented a memorial of the Senate and House of Representatives of the

H. OF R.

Claims against the Government.

JANUARY, 1822.

State of Alabama, representing the great advantages which would be enjoyed by the citizens of that State, as well as those of a great portion of the States of Virginia, Tennessee, and North Carolina, by cutting a canal to unite the waters of the river Alabama with those of Hiwassee—a branch of the river Tennessee; and praying that the attention of Congress may be directed to that object; which memorial was referred to the Committee on Roads and Canals.

Mr. WILLIAMS, from the Committee of Claims, in obedience to the instructions given on the 18th instant, reported a bill for the relief of William Henderson; which was read twice, and committed to a Committee of the Whole.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, made a report on the petition of sundry distillers, in Lancaster county in the State of Pennsylvania, accompanied by a bill for their relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMS, from the Committee of Claims, to whom was referred the bill from the Senate authorizing the payment of a sum of money to Thomas Shields, made a report thereon, adverse to the passage of the bill; which report was, together with the bill, referred to a Committee of the Whole.

The resolution moved by Mr. PLUMER, on the 6th instant, calling upon the Secretary of the Treasury to "communicate to the House such information as he may possess respecting the funds set apart by an act of the State of Maryland, dated December 26, 1791, for improving the port of Baltimore, and by an act of the State of Georgia, dated February 10th, 1787, for clearing out obstructions in the river Savannah, to which acts the assent of Congress was given March 17, 1800, and by subsequent acts continued to the present time—stating the amount of duties received under said acts, the manner in which they have been applied, and how far the objects therein contemplated have been accomplished"—was taken up, and agreed to.

Several other resolutions, calling for information from public officers, which information has been included in requisitions already made, or is no longer thought necessary, were taken up, in pursuance of the new rule of the House read over, and, on motion, laid on the table.

CLAIMS AGAINST THE GOVERNMENT.

On motion of Mr. McCoy the House agreed to consider the resolution by him submitted on Friday last, for the adoption of a rule that no petition for a claim of any description shall be received, unless accompanied by evidence, showing that the claim had been made at the proper department, and disallowed, and stating the reasons of such disallowance.

Mr. McCoy supported the resolution. He thought any person who was acquainted with the laborious duty imposed upon the Committee of Claims would see a strong reason for adopting it. Probably one third of their business consisted in the investigation of papers which might, with

greater propriety, be referred to the departments. It was not, in his opinion, asking too much of the claimants to require of them that their claims should first be submitted to this previous tribunal. He thought nine-tenths of the whole number might be settled there, without afterwards troubling the Committee or the House with their further consideration. He also believed that such a reference would be salutary in the prevention and detection of frauds and impositions upon the Government. In the case of private land claims, the proper evidence to support or repel the claim could be investigated and settled in a better and surer manner at the Land Office than it possibly could be by being brought into this House.

Mr. LITTLE was sorry to differ from his worthy friend who had just sat down, in relation to the subject before the House. But he could not forbear to remark, that most petitioners were unacquainted with modes and forms. Feeling themselves aggrieved, and entitled to relief, they naturally turn to this House as a Constitutional resort. If their petition is couched in respectful language, the House was bound to listen to it. After it comes here, it was often found expedient to refer it to the Departments, particularly if it is supposed that evidence exists there that can throw light on the subject. If the resolution is adopted, many important and reasonable claims would, in his opinion, be excluded. He therefore hoped the resolution would not be adopted.

Mr. MOORE, of Alabama, opposed the resolution at some length; but his remarks could not be heard by the reporter.

Mr. TRACY was also opposed to it, as materially restricting the right of petitioning. He believed the Committee of Claims would be rarely aided by any exposition from the Departments, and, so far as he had knowledge on the subject, claimants were not very anxious to submit their cases to the Committee of Claims if they could avoid it. It fell to his (Mr. T.'s) lot to take charge of as many petitions as perhaps any other member. The number of claims of the unfortunate inhabitants of the Niagara frontier was great. But to what purpose should they apply to the Departments? Suppose they go there—what then? They are told there is no law that authorizes the Department to grant them relief. This was a fact which they knew full well before; and it was for that very cause that they found themselves under the necessity of calling upon Congress to interpose. He thought it would not materially lighten the burdens of the Committee of Claims, but would greatly add to the labors of individual members, and at the same time operate oppressively on the rights of the people.

Mr. WRIGHT followed on the same side, but his remarks could not be distinctly heard.

Mr. RANKIN concurred in the sentiments that had been advanced against the resolution; but, if it should be passed, he wished it might be amended. He therefore moved to strike out the word "received," and to insert in lieu thereof the words "acted upon;" also to insert after the word "department," the words "or to the officer, or the tri-

JANUARY, 1822.

The Bankrupt Bill.

H. OF R.

bunal appointed to decide thereon, if any such may have been appointed by law." These amendments were accepted by

Mr. McCoy, who replied to the remarks of the several gentlemen who opposed the resolution, and adverted to the cases of Eli Hart and others, as evincing the propriety of its adoption.

Mr. TRACY would not suppose the gentleman from Virginia (Mr. McCoy) had introduced the case of Eli Hart for the purpose of creating any opposition to it—(Mr. McC. disclaimed any such intention)—but he thought he was peculiarly unfortunate in citing it to support the resolution. The claim referred to had been presented at the Department, before the petition was presented to this House. And what would the right of petitioning be, but a mockery, if the resolution should prevail? Even the amendment now submitted was but an evasion of the right. We might as well prescribe the age, rank, or character, which the petitioner should possess. It was arbitrary in principle, and would be oppressive in its operation; and he, as representing the sovereign people, could not consent to a measure that so materially abridged their Constitutional rights.

Mr. REID proposed to amend the resolution further, by striking out all that part thereof which follows the word "*Resolved*," and inserting in lieu thereof as follows:

That a committee be appointed to inquire into the expediency of appointing an officer, with a competent salary, whose duty it shall be to investigate all claims against the Government, and to report thereon to the Committee of Claims at every session of Congress, which committee shall have the power of confirming or reversing the decisions of such officer; their reports being subject nevertheless to the ultimate decision of the House.

Mr. SMITH, of Maryland, made a few remarks in opposition to it; to which Mr. REID was about to reply, when Mr. McCoy remarked that he perceived a strong current in the House against his resolution, which he should not be able to resist. From deference, therefore, to the sentiment of the House, although without abandoning his own, he would withdraw the resolution.

Mr. REID thereupon submitted the said amendment as an original resolution, which, on the suggestion of the mover, was laid on the table.

BANKRUPT BILL.

The House resolved itself into a Committee of the Whole on the unfinished business of yesterday, (the Bankrupt Bill.)

The question being upon the amendment proposed by Mr. WOODSON, of Kentucky, the mover rose and remarked, that perhaps the discussion would be embarrassed by pursuing the course that had been proposed; he would by no means interfere with its most fair and favorable discussion, and therefore withdrew, for the present, the amendment he had offered.

The question then recurred upon the motion of Mr. STEVENSON to strike out the first section of the bill for the purpose of testing its principle.

Mr. STEVENSON rose and addressed the Committee in a speech of an hour and an half, in support of the motion for striking out.

Mr. STEVENSON commenced by observing that he did not dissemble when he assured the Committee that it was with much reluctance he had consented to participate in the present debate; a reluctance arising as well from the importance of the subject under consideration, as the imposing character which the discussions and deliberations of that House, to him, always assumed. But, as the subject was one of acknowledged interest to the nation, and involving, in his view of it, Constitutional principles, and as it had produced much excitement in the district which he represented, Mr. S. said, he felt it his duty to submit to the Committee his views upon the subject, and the reasons which compelled him to vote against the bill. His situation, he said, was one of extreme delicacy. He resided in a city that had participated deeply in the commercial embarrassments and misfortunes so forcibly presented to the view of the Committee, on yesterday, by the gentleman from Pennsylvania, (Mr. SERGEANT,) and many of whose virtuous, intelligent, and enterprising inhabitants, had been totally ruined—men who, from their conduct, characters, and misfortunes, were justly entitled to claim all the benefits which the friends of the bill seemed to anticipate. Under such circumstances, Mr. S. said, it would readily be perceived that it was no pleasant duty which he was about to perform; and, deeply as he sympathized in the misfortunes of those virtuous and good men (not only of his own State, but elsewhere) who looked to this law as the only means of relief, and whom every feeling of his heart would urge him to save; yet there were other considerations, of a paramount character, which forbid the exercise of those feelings when opposed by a sense of duty; and believing, as he did, that the interests of the nation were opposed to the bill, he felt it his duty to vote against it—from an upright and independent discharge of which duty, no personal considerations could induce him to shrink. He intended, Mr. S. said, as far as he was able, to meet the subject fairly, and, although he knew it would not be enlivened or dignified by the manner of his discussion, yet he should endeavor to avoid fatiguing the Committee by a protracted debate.

He proposed to consider the subject under a two-fold view. First, as to the power, and, secondly, the expediency, of the measure. He doubted, he said, in the first place, the power of Congress to pass a bankrupt system which contained a provision for the extinguishment of individual contracts, or the impairment of their obligation; and if there was such a power, it must operate prospectively, and not retrospectively; and, secondly, that, if they have the power, it was unwise and inexpedient to exercise it in the manner proposed by this bill. Discussions upon Constitutional law, and the powers of the General Government, Mr. S. said, he was well aware, from what he had seen and heard, were not very graciously received in that House, and especially by

H. OF R.

The Bankrupt Bill.

JANUARY, 1892.

those gentlemen who believed that the powers of the Federal Government were sufficiently limited, and would gladly see them enlarged, and who imagined that there was more danger to be apprehended from the Government of the States than that of the Union. These doctrines, he knew, had many powerful advocates, both in and out of the House, and brought to their sanction the authority of great names. To gentlemen who entertained these opinions, Mr. S. said, he was satisfied any arguments which he might urge against the power of Congress to pass this bill, would be unavailing; but yet he should not be deterred from offering them on this or any other occasion, because they might not be favorably received or considered very fashionable. He came, he said, into Congress with some old-fashioned notions upon Constitutional doctrines. He was one of the few (if gentlemen would so have it) who believed that constitutionality and expediency did not mean the same thing, and who thought that the charter of our liberties ought to be expounded, as its illustrious framers intended, with a jealous eye to the rights and objects it was intended to secure, and not as policy or power might direct. Whilst, however, he avowed very frankly these opinions, he hoped not to be understood as expressing any sentiment unfriendly to the General Government, or to the full exercise of its Constitutional rights; he had no such feeling; he came there prepared to aid and support the Government, as far as he could, in the accomplishment of the objects for which it was established; but, at the same time, with a deep-rooted and unalterable attachment to the rights of the State governments, (not less important and dear, he hoped, to every member of the House,) and to the maintenance of which he looked as the most efficient means of preserving the Union, and the liberties and happiness of the people. He should, therefore, he said, as a representative on that floor, always refuse to exercise powers which were not, in his opinion, clearly Constitutional; and, if he entertained any doubt as to the right of doing so he should err on the safe side, and refuse to act. Whenever we are called upon to legislate, said Mr. S., the power must be shown clearly to be Constitutional. Whenever the State governments are to be prohibited from acting, it must be shown as clearly to be unconstitutional.

Mr. S. said he presumed it would not be contended that Congress had power to pass any law extinguishing individual contracts, or impairing their obligation, except under the 8th section of the 1st article of the Constitution, which declares that they shall have power "to establish uniform laws on the subject of bankruptcies throughout the United States."

It was true, he said, that the Constitution of the United States did not contain any direct prohibition upon the General Government, as to the exercise of such a power, and did contain a clause directly inhibiting the States from impairing contracts. But, Mr. S. said, that this prohibition upon the State governments, and the absence of it, as to the Federal Government, was no argu-

ment to prove that the power was possessed. The reason of the prohibition, in the one case, and its absence in the other, was obvious, and to be found in the peculiar structure and organization of the two Governments. It had been well remarked that the Federal Government was "*imperium in imperio*—a government within a government;" the one possessing only such powers as were expressly or incidentally granted; the other possessing all powers not granted or prohibited. As this power, then, was not granted by the States to the Federal Government, (unless it be in the clause giving power to pass bankrupt laws, which he should hereafter examine,) it was unnecessary to prohibit, in the Constitution, the exercise of a power not granted. But this power remaining with the States, and it being a dangerous one to be confided to any government, it was deemed wise to prohibit it. This, Mr. S. considered, was the reason why the prohibition was laid upon the States, and not upon the General Government. If this was not the case, and the power to violate contracts be claimed for Congress, (apart from the bankrupt clause,) it can only be supported upon the ground that the prohibition of this power to the States was an implied permission of it to Congress. But this doctrine, it was believed, would not be urged, and could not be sustained. Congress have no more power (unless it be in the clause on the subject of bankruptcy) to impair the obligation of a contract than the States, and the moral prohibition is equally binding on both.

But it will probably be argued that the power given by the 1st article of the Constitution to pass uniform bankrupt laws, vests in Congress the power to extinguish the contract or impair its obligation.

Let us, said Mr. S., first see in what manner this clause of the Constitution is to be construed, and then examine what power, by a fair construction, it gives.

It seemed to him that all parts of the Constitution were not subject to the same rules or modes of interpretation. That charter partook of essentially different characters, and ought not to be construed alike strictly or liberally. There were parts of it which might be considered of a social, and other parts of a federative character. The one ought to receive a liberal, the other a more strict and rigorous construction. The grant of powers purely federative, it had been said, partook more of the character of a treaty or compact between independent Powers, and therefore should be more strictly interpreted, especially if the grant of power claimed was in derogation of the rights of State sovereignty. Here Mr. S. illustrated the argument, by those parts of the Constitution on the subject of the habeas corpus, the trial by jury, and the liberty of speech and the press. These rights ought all to receive the broadest and most liberal construction; but the power now claimed belonged to the federal, and not social class, and therefore the rule of construction should be strict rather than liberal. He proposed, however, to consider it in both ways: 1. Strictly according to its words; and 2. Liberally, according to the intention of the

JANUARY, 1822.

The Bankrupt Bill.

H. OF R.

framers of the Constitution; and in either way he denied that the power was given. "Congress shall have power to pass uniform laws on the subject of bankruptcy." What, Mr. S. asked, was bankruptcy? The Constitution is silent on the subject, and there is no Constitutional definition; but we shall be told that we must look to the English statutes alone for the meaning, and what constituted bankruptcy there is to be the rule of power here.

If this be so, (and Mr. S. said he would not stop to controvert it,) if the framers of our Constitution did look alone to the English system when they used the term bankruptcy in the Constitution, let us see what is its meaning and character according to the English writers. Bankruptcy, we are told by Sir William Blackstone, (that accomplished scholar and enlightened judge,) is a system founded in justice and humanity—intended for the benefit of trade, and conferring benefits and privileges on creditors and debtors; on the creditor, by compelling the bankrupt to give up his whole estate without any fraudulent concealment, for the payment of his debts; and on the debtor, by exempting him from the rigor of the law, which subjected his person to imprisonment. These are the essentials which constituted the English system of bankruptcy; and when was it heard, said Mr. S., that the release or extinguishment of the debt was an essential or necessary ingredient to constitute bankruptcy? Neither in England or America, he ventured to affirm, was it even so considered. Not in England, because history tells us, that the bankrupt system existed there as such, for nearly two centuries, without any such provision, and it was not until the reign of Anne, that it was ever heard of. Then, for the first time, it was introduced into the English bankrupt law. But, say the gentlemen, as this clause was a part of the system at the time the Constitution was adopted, the framers of the Constitution intended to make that system, as then existing, the rule of power here. This argument, Mr. S. said, proved too much. By the English statutes, from Henry to the present day, the bankrupt system, was confined exclusively to traders. Now, are gentlemen prepared to say, that Congress have no power, if they do pass a bankrupt law, to extend its benefit beyond traders, to other classes of unfortunate and honest men? and yet this would be the consequence if the English statutes were alone, in the eye of the Convention, when the Constitution was formed. Again, no commission can issue in England, but on the application of some creditor: and yet would a law be said to be unconstitutional here, because it provided for issuing the commission, upon the application of the debtor? if not, what becomes of the argument that the English statutes, as they existed at the time the Constitution was formed, give the rule as to the powers which Congress possess? Mr. S. here referred to an opinion of the Supreme Court on the question of what were the essential ingredients of a bankrupt law. He did not refer, he said, to the decisions of that court, or any other court, as authority on this House, but, only as the opinion of distinguished jurists,

and enlightened men, entitled to such weight as the House might be disposed to give them. The Chief Justice, in delivering the opinion of the court, in *Sturges vs. Crowninshield*, says: "The line of partition between bankrupt and insolvent laws, is not so distinctly marked as to enable any person to say, with precision, what belongs to the one class, or to the other. It is said, for example, that laws which merely liberate the person are insolvent laws, and those which discharge the contract, are bankrupt laws. But, if an act of Congress should discharge the person of the bankrupt, and leave his future acquisitions liable to his creditors, we should feel great hesitation in saying that this was not a bankrupt act, and therefore unconstitutional." Again, the court say, that the States may, until Congress exercise the power, pass bankrupt laws; though no power is given them to include in such laws any principle impairing the obligations of contracts. Here, then, said Mr. S., is the authority of the Judiciary department of this Government, that the release of the debt is no characteristic of a bankrupt law; that even the State governments may pass bankrupt laws, but without the clause which, it is now said, gives it alone the character and name of bankruptcy. Does not this prove that bankrupt laws may exist, without this extinguishment of the debt, and that, *ex vi termini*, is in no part of the system of bankruptcy. If, then, we construe the Constitution strictly, it comes to this—Congress may exercise the power of passing uniform bankrupt laws, and beneficially too to the nation (as I shall endeavor to show,)—thus satisfying the power which is given in the first article of the Constitution; and yet, not violating the principles of the social compact, and the implied and moral prohibition against the invasion of private contract. The inviolability of contract was intended to be held sacred. Indeed, Mr. S. said, he considered the implied prohibition against this power, as strong and binding as if it had been expressed in the Constitution; and in construing the clause upon the subject of bankruptcy, in connexion with the genius of the Government, and the spirit, and provisions of the other part of the Constitution, and the implied and moral prohibition, he thought the rules of construction which would be applicable to two affirmative statutes on the same subject, not directly conflicting, ought to prevail; in such case both statutes are made to stand, because implication is not sufficient to repeal. So here, this implied power is not to be considered as given, because directly against the whole spirit and object of the Constitution, and the rights it was intended to guard. But, Mr. S. said, he would abandon, if gentlemen pleased, his strict and literal construction of this sacred instrument, and consider it upon more liberal and extended principles, and according to the intention and meaning of the distinguished men who framed it. It would be admitted, he supposed, as a principle of universal law, (and as universally just,) that all contracts are obligatory, and must continue to have force, until performed; or until the obligation to performance be discharged by the party having

H. OF R.

The Bankrupt Bill.

JANUARY, 1822.

the right to performance. It would also be conceded, he presumed, that contracts are property, and were so intended to be regarded by the framers of the Constitution.

Let us then see, said Mr. S., how this right of property stands connected with the Constitution and the Government itself. Need the House be told that it is among the most sacred and important rights which belong to freemen and free Government. That it stands next to liberty and life; both of which would be worthless without it. That so jealous were the people of this right, and fearful of its security, that they were found, immediately after the adoption of the Constitution, throwing additional safeguards around it, and expressly declaring in the fifth amendment, that private property should not be touched, even for public benefit, but on due compensation. Shall it be said then, that, whilst these wise men were throwing additional barriers around this right of property; whilst they directly say, that in times of great necessity, even in war, when the foot of the invader might be on your shore, and the Government itself endangered—if in such cases, Mr. S. said, you could not touch (by the exercise of what might be called the despotic power) private property without compensation, can it be supposed that such a power was intended to be given, and that incidentally, by tacking it to commercial regulations, and making it an appendage of bankruptcy; and given, too, for the benefit, not of the whole people, but a particular privileged class; whilst equality breathes through every part of the Constitution, and declares that no distinctions, no monopolies, no privileges, shall exist? whilst it takes from Congress this power, for the benefit of all, can it be believed it was intended to be given for the benefit of a part? It is at war with all those principles which actuated those illustrious men, and upon which the Government was based. They knew that property was the object at which tyranny struck; and was therefore the citadel which freedom should defend. They never dreamed that this tremendous power—this sleeping monster—was covered by a right to make laws for the benefit of commerce and commercial men. The evils which they intended to remedy, and the benefits they meant to confer, had nothing to do with such a power, as he should endeavor to show. What, Mr. S. asked, were these evils and benefits? (and here he should undertake to prove what it was the duty of those who claim this power to show.) In the first place, faith was to be established between the citizens of the different nations: All citizens of the United States were to be placed on the same footing; one State not to affect another by protecting the property and frauds of its own citizens, or others; the agricultural States were not to fetter and embarrass those that were commercial. The Convention saw that some of the States might, under peculiar circumstances, be disposed to act unjustly and improperly, by protecting the property of its citizens against their creditors, and therefore it was deemed proper to invest Congress with the power to prevent it, by passing uniform laws on the subject

of bankruptcy, whenever the State Legislatures should make it necessary; that these were the reasons which induced the Convention to give the power, Mr. S. thought clear, from a passage to be found in the *Federalist*, (written by Mr. Madison,) and the only thing that was written or said, (which he had been able to find,) either before or after the adoption of the Constitution upon the subject. When the writer came to that part of the Constitution which related to bankruptcy, (1 vol. Fed. 201,) he uses these words: "The power of establishing uniform laws of bankruptcy is so intimately connected with commerce, and will prevent so many frauds, where the parties live, or their property may lie, or be removed into different States, that the expediency of it seems not likely to be drawn into question." Here, then, we see that the objects were to prevent frauds, by debtors removing with their property from one State to another; and after incurring debts in one part of the Union, going to another, for the purpose of securing and covering their property. It was to secure the country against multiform and inconsistent bankrupt laws of the State governments, which might defeat the rights of creditors, and aid the debtors in their fraudulent and secret conveyances of property, that the power was given, but it was never intended in doing so to authorize the total extinguishment of individual contracts by any Legislature. It was not necessary to be given; it was too dangerous a power to be exercised; and wise and virtuous as Representatives in Congress might have been considered by those who formed the Constitution, yet they knew that they would be but men, and that Legislatures, like individuals, often do "acts that would make even angels weep." Besides, Mr. S. said, could it be believed, for a moment, that such a power as this claimed, if it had been believed to have been given, (and we have the right to understand the Constitution as it was received by our fathers,) would not have been seized on at the time as the ground of opposition to its adoption, and the means of defeating it, by those men in the respective States, who viewed it with so much hostility and jealousy? Would the opponents of the Constitution in the conventions of the several States, Mr. S. asked, have seized on so many other powers granted, of subordinate and inferior character, and have lost sight of this great and vital one, if they had believed for a moment that the power now claimed was given, or intended to be given, in any part of the Constitution? Where, Mr. Chairman, said Mr. S., was that eagle and lynx-eyed jealousy which marked the conduct of Mason, and Grayson, and the immortal Henry, in the convention of my own State, and that of other distinguished men throughout the Union, when a power such as this was permitted to pass without objection, or even discussion? Sir, I tell you that, had this power then have been supposed to have been given, the Constitution would never have been adopted by Virginia. This alone would have insured its rejection, notwithstanding the character, and talents, and unexampled perseverance, of its best friends. In support of this view of the subject,

JANUARY, 1822.

The Bankrupt Bill.

H. OF R.

Mr. S. referred to the debates in Congress soon after the adoption of the Constitution, in which a bankrupt system was opposed upon the ground that the evils which the convention intended to guard against were those which he had just pointed out; and until the States made it necessary, by protecting and aiding fraud, for Congress to interpose, they ought not to act. That bill was at that time promptly rejected. In short, when we consider the nature and danger of the power claimed; the character of the rights intended to be assailed by it; the principles of our Constitution, Government, and laws; the equality which everywhere breathed through them; the direct prohibition upon the State governments, and the implied moral prohibition upon both State and General Government—could it be believed, Mr. S. asked, that the framers of the Constitution intended by this clause to lay at the mercy of Congress such an important and dangerous power; and that, too, for the benefit of a particular class, to the exclusion of the rest of society? It cannot be believed; if it were so, vain and worthless would be the Constitution itself, and all those boasted rights, which we thought had been secured to us, by the virtue, and wisdom, and god-like achievements, of those illustrious men who poured out their blood to save us.

But if the power is given to Congress to pass laws which may extinguish or impair the obligation of individual contracts, must they not act prospectively, and not retrospectively? It would seem, Mr. S. said, to him, that this was a branch of the subject which did not need discussion; that the principle of retrospective law was at war with every system of human legislation, both as it regarded crime and contract, and alike odious and unjust. The importance of some Constitutional safeguard, as to personal rights, had been too strongly enforced by the oppression and tyranny of the mother country to be disregarded. The fate of Strafford, and Clarendon, and Atterbury, were fresh in the recollection of the fathers of our Revolution; and they knew that the blood of Hampden and the labors of Sidney had ended in constructive treason. These oppressions, which had been practised under the cloak of legislative judgments, and judicial decisions, pointed out the propriety of throwing additional sanctions around the treasure of human life; and accordingly the provision in the Constitution as to *ex post facto* laws was inserted. But, after having thus wisely provided in favor of personal rights, and placed them beyond the reach of retroactive laws, could it be believed that the framers of the Constitution intended to leave the rights of property at the mercy of legislative discretion? Were not the great objects of legislation, Mr. S. asked, to enforce, not violate contracts? Did not every principle of correct legislation reprobate this odious doctrine of retrospective laws? Was it not against the form, and genius, and spirit, of every free Government, and especially ours? Was it not against the principles of the social compact, natural justice, and all our notions of moral and civil rights? Are Congress prepared, Mr. S. asked, in legisla-

ting on such a subject as this, to give its high sanction to such doctrines? He hoped not. He hoped that if the bill was to pass, and with the 35th section, (providing for the extinguishment of the contract,) it would be limited alone to contracts that should be thereafter made.

Mr. S. said he was fearful he had already tired the Committee, and he would not press this branch of the argument further, particularly as he should probably be followed by some gentlemen who were able to do it more justice. He would, therefore, pass on to the consideration of the bill upon the grounds of its expediency.

And here, Mr. S. said, we are met by an argument that we have often heard used in favor of legislating on the subject—that, as the power had been given to Congress by the Constitution, it was intended that it should be exercised. In answer to this, Mr. S. said, he would only remark that the power given was only to be exercised in a wise discretion and in extreme cases. It was like some other powers which the Constitution had left in the discretion of Congress, and which had not been, and he hoped never would be, exercised: he alluded particularly to the right of fixing the time and manner of elections of Senators and Representatives to this House; and he was indebted for this to the suggestion of his distinguished colleague, (Mr. RANDOLPH.) This power was given to enable Congress, if the States should ever attempt to embarrass the Federal Government by the manner of their elections, to interpose the corrective. As yet the power has never been exercised, and, he hoped, never would be; and if it was attempted, it would produce great excitement and alarm in the States. So, too, as to this power of passing uniform bankrupt laws. Whenever the States shall, by an improper course of legislation, render it necessary for Congress to act, let them do so; but let us not be told, that, because the power is given, it is therefore to be exercised.

Mr. S. said that he would proceed briefly to the consideration of the principles and leading provisions of the bill.

This was, in effect, the English system of bankruptcy, differing only in some of its details, and in the nature of its punishments and prohibitions. He objected to it in toto. 1st. Because it had wholly failed in its operation in England, (where it could be more easily enforced than in this country,) and would consequently fail here. 2dly. That it was a system filled with mischief and fraud, not suitable to our notions of civil liberty or the principles of our jurisprudence, nor the morals, manners, or habits, of the people.

Let us see, in the first place, how the system has operated in England. And here, Mr. S. said, before he proceeded further, he would beg leave to say one word in answer to that part of the argument of the gentleman from Pennsylvania, (Mr. SERGEANT,) as to the effect of the bankrupt laws of France, Holland, and Spain. Those countries were not like ours. Their Governments are despotic, ours limited and confined. There they had no security for rights of persons and property, (but discretion of ruling power,) here Constitution—

H. OF R.

The Bankrupt Bill.

JANUARY, 1822.

in protections and safeguards. Their principles of civil liberty and jurisprudence wholly different from ours, as well as the morals and habits of the people. The effect of their laws ought to have no influence here; and we should look, if any where, alone to that country, from whom it is said we borrow the system, and whose Government, laws, and people, are nearest our own. That the bankrupt system has not been beneficial in England, Mr. S. said, could be easily shown. And as it was matter of fact, rather than argument, he had lately examined with some labor and care the minutes of evidence taken before the select committee of the House of Commons appointed to consider the bankrupt laws and their operation, in the year 1818; from which he had taken some extracts, which he should ask leave to read to the committee. As to the character of this evidence, and the weight it should have, Mr. S. said he could not do better than give the words of the committee in their report to the House of Commons:

"Your committee did not consider themselves at liberty to contemplate merely the case of particular and insulated defects, but felt themselves under an obligation to take a general and comprehensive view of the whole system of proceeding under the present constitution of the bankrupt code. In the prosecution of their inquiry, your committee have sought that information which was to direct their judgment from professional men of extensive experience; and while your committee confess their unfeigned admiration of the truly upright and disinterested manner in which those gentlemen have delivered their evidence with respect to a system for the continuance of which they might naturally be expected to feel some predilection, your committee cannot too earnestly recommend that evidence to the attentive consideration of the House."

Mr. S. then read various parts of the evidence referred to. He began with Basil Montague, the first witness, who said:

"That he believed it was common for the most undeserving bankrupts to obtain their certificates by fraudulent and improper means, to the great injury of the good creditor, and to the great injury of public justice; and he thought that it frequently happened that dishonest bankrupts, from having recourse to means from which honesty would recoil, had greater facility in obtaining their certificates than honest men possess."

J. F. Vandercorn was of opinion, that the majority of "commissions were issued with the concurrence, and at the request, of the bankrupt. He said that it often happened that the affairs of a bankrupt were in such a state as that, however unwilling he might be to fall under the odium of a bankrupt, he saw it to the advantage of his creditors and himself to acquiesce in the measure, and therefore he managed, as he was directed to do, and an act of bankruptcy was committed."

Geo. Lavie.—"He said that, as the bankrupt laws are at present administered, they afforded advantage to no one except to bankrupts. Being asked whether his prepossession against the bankrupt laws did not arise from a strong opinion of their general insufficiency, he answered, most certainly; and he said he saw a great deal of it in the early part of his life, which had led

him to the opinions he now entertained of the total inadequacy of the bankrupt laws, as now administered."

A. Waithman.—The following interrogatory put by the committee: "Are you of opinion that the bankrupt law, as it now exists in this country, is a scandal and disgrace to it?" "I have long considered it so; that it has held out a great inducement to dishonesty. Mr. Townsend, the Bow street officer, once told me he had a conversation with Major Semple, who said: 'Why, sir, I have been a fool all my life; I have not known how to go to work; I have been running the risk of my life for trifling things; but if I were to begin my life again, I would open a shop as a trader or merchant, and become a bankrupt, and make my fortune at once.'"

J. Ingram Lockhart, a member of Parliament, and one of the committee. "The observations which I have to offer to the committee were written three years since, have been but little varied, and are the result, partly of an experience in country commissions, and partly, but chiefly, of frequent thinking on the subject. I have, in almost every commission in which I have been named, found that the bankrupt had acted with great injustice towards his creditors, generally with dishonesty and fraud, and always with imprudence and carelessness, of the wreck of his substance, which in fact was not his own, but theirs; and this conduct I can only trace to one cause, and that is, the facility with which almost every bankrupt goes through the operation of his commission, and the situation he is generally found in after his last examination, and the appearance he is enabled by some means to make, and the connexions he renews after his bankruptcy. The want of due investigation into his conduct, of a discrimination between the dishonest and unfortunate, appear to me to be a radical fault in this system of the bankrupt law, pervading the whole of it, and producing the most pernicious effects on the morals of the subjects of this realm."

Archibald Cullen.—The committee will be happy to hear your ideas on the subject of the bankrupt laws. He answers: "The bankrupt law was introduced with a view to prevent and punish the frauds of debtors, and to distribute their property equally among all their creditors. But it has not succeeded. However wise the original plan may have been thought, yet it does not now, even with all its subsequent alterations and accessions, appear to effect either of the objects which it professed; the property is not forthcoming, or is wasted; the same frauds still exist, neither diminished nor punished; and a new class has sprung up, engendered by the very proceedings which have been instituted to prevent them; so that the prominent and growing evil of the present day, with respect to debtor and creditor, appears to be the bankrupt law itself."

This said Mr. STEVENSON, is the evidence of some of the most distinguished solicitors, counselors, and commissioners, of England, upon the effect of their system of bankruptcy; to which I beg leave to add one additional authority, that of Lord Chancellor Eldon, (reported in Vesey.)

"The Lord Chancellor took the first occasion of expressing strong indignation at the frauds committed under cases of the bankrupt law, and his determination to repress such practices. On this subject his Lordship observed, with warmth, that the abuse of the bankrupt laws is a disgrace to the country, and it

JANUARY, 1822.

The Bankrupt Bill.

H. OF R.

would be better at once to repeal all the statutes than to suffer them to be applied to such purposes. As they are frequently conducted in the country, they are little more than stock in trade for the commissioners, the assignees, and solicitor."

Mr. S. said he would also refer, whilst he was on this part of the subject, to the report of the committee upon the subject of the bankrupt law in Ireland, to which the gentleman from Pennsylvania on yesterday had allusion; from which it would appear that the system had failed, not only in England, but Ireland:

"It will be seen (says the report) that, although much and very material evidence has been collected upon the operation of the bankrupt law in Ireland—establishing grievances of the most serious description, and, indeed, the total failure of the plan for any beneficial consequence, your committee have not proposed any measures to meet the evils which are the subject of complaint; they therefore feel it due to the House to state, that they regard the statute by which the bankrupt system was established in Ireland, as of so modern a date, compared with the English statutes, that it occurs to your committee that it might be proper to establish an entirely new system instead of the one which has proved so unsatisfactory; but, as it is essential that such a system should be formed with reference to local circumstances, and to principles of jurisprudence in a great degree peculiar to that part of the empire, and not familiar to your committee, it has appeared to them most respectful to the House merely to submit the evidence, and to leave ulterior measures to those who may be better qualified to form a judgment with respect to the alterations which it would be most for the public interest to adopt."

Now, continued Mr. S., I appeal to the candor of the gentleman from Pennsylvania, (Mr. SERGEANT,) and ask him, if he was not mistaken in the information given the House on yesterday, as to the *causes* of failure, in England and Ireland, of the bankrupt system? He told the House that the three principal causes of defeat and objection to the system, were: 1st. The appointment of Commissioners by the Lord Chancellor; 2dly. The conduct of the country commissioners; and 3dly. The manner and places of meeting to do business, &c. To these suggestions, Mr. S. said, he opposed the evidence just read, which proved that the system was radically defective—productive only of mischief and fraud; corrupting their subjects; conferring none of the benefits it was designed to give, but a scandal and disgrace to the Empire. This, said Mr. S., is the evidence of England herself upon the subject, and she is not to be discredited.

But it is said that this bill differs in many of its provisions from the English statute; be it so; but in what? In some of its details, as to punishment, appointment of commissioners, &c. But has it not the bones, and sinews, and the vital parts of the English system? Can the essential quality of crimes be diminished or changed by a new mode of dressing? Is fraud a crime? Is falsehood one? Is perjury? You have them all here. And, as this system has been marked in its progress for upwards of two centuries in England, by desolation,

fraud, and perjury, so will it be here. If in that country, where the population is more dense, and territory limited, and where the facilities are so much greater for enforcing a bankrupt system, is it not fair to suppose that, as it has failed there, it will also fail here? We should forbear even from making another experiment. In Governments, as in philosophy, Mr. S. said, we have been told more regard is due to the deductions of experience than to the illusions of hypothesis; and in the modifications of political power and change of laws, we ought not rashly to hazard changes which may only glitter with ideal advantages, and teem with real mischiefs. The House should therefore pause before they gave weight to the argument that this system should be adopted, as an experiment due to those who make the application, and so forcibly urged by the gentleman from Pennsylvania, (Mr. SERGEANT.)

But suppose, for argument sake, Mr. S. said, that the bankrupt system had not failed, but succeeded, in England. He contended that it would not do here, because its provisions were not suitable to the country, government, laws, or habits of the people. Few systems or laws of one nation can be put on another, and made to fit. There is a great deal in situation, local circumstances, government, jurisprudence, habits, morals of people, &c., &c.; and, unless the system proposed be adapted to these it will not suit; and this proves the fallacy of the argument of the gentleman from Pennsylvania, (Mr. SERGEANT,) which he ingeniously pressed on yesterday, that the same interests or systems will suit all nations. All theories are absurd, said Mr. S., which shall attempt to enjoin on one State what is or may be applicable to another.

Have we not already had one proof that this system, which is now urged upon this House as an experiment, has totally failed after a full and fair trial? The gentleman from Pennsylvania (Mr. SERGEANT) felt the force of his objection, and ingeniously endeavored to avoid it, by impressing the House with the opinion that the old bankrupt law of 1800 was the offspring of party, and was ushered into being amidst the storms and excesses of party spirit, and therefore unpopular, &c. Of this fact, Mr. S. said, he could with certainty say nothing, being too young to know any thing personally of the occurrences of those times, but he might venture to say that, from the course of events which succeeded the coming in of the Republican party, that the gentleman from Pennsylvania (Mr. SERGEANT) was mistaken in the fact. We all know, Mr. S. said, there were certain laws which passed under what was termed the Federal Administration, and believed to be of a party character, which were, consequently unpopular to the new administration, and continued to be so until repealed; the judiciary and bank laws Mr. S. particularly alluded to—the one was directly repealed, and the other expired. But if this bankrupt law had been considered, in those days of heat and contest, as a party measure, and intended as such, to be saddled on the nation by a party going out of power, rely on it, among the first

acts done by the new administration, would have been the repeal of this law—it would have been expunged from the statute book which it stained, and not suffered to linger out an existence of so many years. Mr. S. said he therefore felt justified in saying that the fact was not as the gentleman from Pennsylvania, (Mr. SERGEANT,) had supposed; the law of 1800 was passed, (and he said it too in honor of the Congress that passed it,) from other and better motives—as an experiment called for at that time by the commercial part of the country, and which expired under the weight of its own sins. It ought then to be considered as a fair experiment, which the enemies of this bill had a right to claim, and which should have weight with the House.

But, said Mr. S., let us see what are the evils which are likely to arise under this system if it be adopted; among many the following may be taken as the most prominent: 1st. It will induce persons to contract debts without any regard to the means of payment, from a knowledge of the means by which they may be discharged, to the injury of the commerce and credit of the country. 2d. By the great increase of litigation and expense to the people, by the number of courts, commissioners, changes of the board, conflicting decisions, &c. 3d. The facility with which fictitious debts will be proved, (by ex parte affidavits) and consequent frauds, forgeries, and perjuries. 4th. The difficulty of dividing the property of the bankrupt early, getting it out of the hands of assignees, and preventing them from speculation on it, &c. 5th. The mismanagement of assignees, and want of sufficient motives to insure activity and attention on their part to the affairs of the bankrupt. 6th. The ease with which undeserving and dishonest men will get certificates, and the absence of all discrimination between culpability and misfortune. Besides these objections, there are others of a much stronger character. What, said Mr. S., shall be said of the power given to these commissioners to issue a warrant to any one authorizing the seizure, in any part of the Union, of a man declared a bankrupt, and giving the right of dragging him from one quarter of this continent to the other? Whilst the murderer, who commits homicide in one State, and flies to another, cannot be pursued and retaken, but must be applied for through the Executive authority of the State where he may be, a power is here given to a commissioner—no, to an acquitted felon, if the commissioner chooses to appoint one, a man without character and property, to seize, and carry, as a prisoner, a free man from one end of the Union to another—and no remedy provided by the bill for any abuse of this power. Whilst no officer in one State can go into another, this man named by the commissioner, not sworn, holding no office, and destitute of character and responsibility, is to be clothed with a power so unlimited and so dangerous to the personal liberty and rights of the citizen!

Again, by the 5th and 21st sections of this bill, the right is given the commissioners to issue their warrant directing any one to break open the houses, chambers, doors, trunks, or chests of the bankrupt,

and take possession of his papers, goods, and effects, upon what they may consider to be probable cause, in direct violation, Mr. S. said of the spirit, if not the letter, of the Constitutional provision which declares, “that the right of the people, to be secure in their persons, houses, papers, and effects, against unreasonable seizures, shall not be violated.”

But there was another provision of this bill still more odious and detestable, and at war with all the best feelings of the human heart—it was that section which authorized the punishment by imprisonment of the child, the devoted daughter, who should attempt to aid her ruined and wretched father! What are we to think of a system which denounces, as criminal, acts that bring to their support the highest moral and religious sanctions; a system which requires to be sustained by tearing loose all those endearing and filial ties, which unite, indissolubly the parent and child, and, which dignify and adorn the female character? Mr. S. said, that he was confident there could be but one sentiment in the Committee upon this feature in the bill, and that was of the strongest reprobation. He urged the Committee to reject, whilst they had it in their power, this bill, freighted, as he believed it was, with the most ruinous and dangerous consequences to the best interests of the nation; and concluded by declaring it as his opinion, that, if it passed, the people of this country would have cause unceasingly to deplore its defects, and imprecate its continuance.

After Mr. STEVENSON had concluded, Mr. SMYTH observed that the hour of adjournment having passed, and the House being possessed of the impressive argument of his colleague, (Mr. STEVENSON,) would not probably be disposed to listen to the observations he proposed to submit on the subject. He therefore moved that the Committee rise and report progress, which was carried, and the Committee thereupon had leave to sit again.

Mr. SAWYER made an ineffectual attempt to change the daily hour of meeting from 12 to 11 o'clock; and then the House adjourned.

THURSDAY, January 24.

Mr. BARSTOW presented a memorial of sundry inhabitants of Gloucester, in the county of Essex, and State of Massachusetts, praying for the aid and patronage of Congress in opening a water communication through the town of Gloucester, to connect the waters of Boston Bay with those of Ipswich Bay; which memorial was referred to the Committee on Roads and Canals.

Mr. MOORE, of Alabama, presented a petition of William de La Carrera, of Pensacola, in East Florida, praying to be permitted to import into Florida a number of slaves which belong to him, and are now at Havana, in the Island of Cuba, having heretofore been sent from Pensacola to that island, to work on an estate of the petitioner.—Referred to the Committee on the Suppression of the Slave Trade.

On motion of Mr. LEFTWICH, the Committee on

JANUARY, 1822.

Reorganization of the Army.

H. OF R.

Military Affairs were instructed to inquire whether any clerks in the Departments have entered into contracts with the Government; also upon what terms the contracts, if any, have been made, and the propriety of prohibiting such engagements in future.

Mr. STERLING, of New York, submitted the following resolution, viz:

Resolved, That the Secretary of the Treasury be directed to report to this House the number of land offices established by law in the different States and Territories; designating the number and location in each State and Territory; the annual expense to the nation of supporting said offices; and the amount of money received at each during the years 1820 and 1821; and whether, in his opinion, the public good requires the increase or diminution of said land offices, or any alteration in the location of the same; and, if any increase is required, in what State or Territory the same ought to be made.

The resolution was ordered to lie on the table one day.

The SPEAKER laid before the House a communication from CÆSAR A. RODNEY, announcing the resignation of his seat in the House as a Representative from the State of Delaware.

On motion of Mr. TAYLOR, the same was laid on the table, and the SPEAKER was directed to communicate information thereof to the Executive of the State of Delaware.

The SPEAKER also presented a communication from the Department of State, transmitting a copy of the returns of the marshal of the State of South Carolina, under the late census, of Kershaw district; which was laid on the table, and the necessary parts thereof ordered to be printed.

The SPEAKER further laid before the House a communication from the Treasury Department, transmitting statements, showing the commerce and navigation of the United States for the year ending the 30th of September, 1821; which was referred to the Committee on Commerce, and ordered to be printed.

On motion of Mr. HOBART, the House agreed to consider the resolution submitted by him on a former day, calling for information in respect to the Post Office Department. Mr. WALWORTH withdrew the amendment which he had proposed thereto, and the resolution was adopted.

REORGANIZATION OF THE ARMY.

Mr. CANNON rose, to call the attention of the House to a resolution submitted by him some weeks ago, and now lying on the table. It would be recollected, he said, that, on the reduction of the Army by Congress at the last session, a different organization had been given to it by the Senate than was proposed by a large majority of the House; which change, he believed, would not have received the sanction of a majority of the House, but for the lateness of the period at which the bill, with this amendment, was returned from the Senate. The difference of expense of maintaining the Military Establishment as at present organized, Mr. C. said, was vastly greater than it would have been if otherwise organized. He had, for the in-

formation of the House, made an estimate, not only of the amount of public money which would be saved by reorganizing the Army, but also of the probable number of officers that would be discharged if the Army should be reorganized according to the resolution which he had moved, and now meant to call up. Mr. C. here proceeded to state that, should Congress pursue the course which he proposed, the total number of officers of each grade disbanded, including both infantry and artillery, and excluding the general staff, would be—

5 Colonels, salary of \$2,400 each.

5 Lieut. Colonels 2,149 "

5 Majors - 1,960 "

15 field officers in all.

5 regimental quarterm's, \$849 per annum.

5 Sergeant majors - 849 "

5 Quartermaster sergeants 849 "

5 Adjutants - 120 additional, taken from the line.

5 Paymasters - 1,908 per annum.

25 of the regimental staff.

53 Captains—35 of infantry, \$1,044 per annum, 18 of artillery, \$1,428 per annum.

71 First Lieutenants—35 of infantry, \$849, and 36 of artillery, at \$1,176 per annum.

72 Second Lieutenants—35 of infantry, \$813, and 36 of artillery, at \$1,176 per annum.

195 commissioned officers of companies, and 549 sergeants, corporals, artificers, and musicians, at an average of \$300 each per annum.

Making an aggregate number of 784 officers to be disbanded, being surplus officers over the number which would be necessary when the Army was properly organized. The whole amount per annum saved by this reorganization would be \$428,247 96, leaving out of view the reduction of the general staff, which, included by a proportionate reduction, or that fixed on by the House last session, would augment the annual saving by the reorganization, to at least \$450,000.

Mr. C. said, he had not risen for the purpose of making a long argument on the subject of this resolution. It could not be denied, he said, that the period of the session has now arrived when, if it was proper to look at the subject, it ought to be referred to the consideration of the Committee on Military Affairs. On the subject of retaining so large a number of officers in service, he was, he said, decidedly opposed to it. He believed it would be impossible for those officers, however disposed to do their duty, to render any service to the Government—inasmuch as an army organized, or rather disorganized, as it now is, could not be of as much service, either for peace or for war, as if it were organized as he now proposed. For, said he, as you multiply officers you throw an encumbrance on the Army, and place the high-minded individuals who fill its offices in a most disagreeable situation; that is, being in the employment of the Government without having any duty whatever

H. OF R.

Militia Fines.

JANUARY, 1822.

to perform. This resolution proposing merely an inquiry, he hoped there would be no opposition to it. Perhaps, he said, other changes in the organization of the Army might be thought necessary, particularly the consolidation of the ordnance with the artillery. If so, he hoped the Military Committee would report accordingly,

The House having agreed to consider the resolution, in the following words:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of reorganizing the regular Army, (so that companies in the different corps contain the number of non-commissioned officers and privates they did previous to the reduction and organization made under the act of last session of Congress;) and that said committee inquire into the expediency of disbanding the supernumerary officers, and reducing the general staff.

Mr. COCKE said, he had rather that the resolution should not confine the committee to any specific alteration in the Army. Let the committee, said he, have the subject referred to them generally; they can then examine every branch of the service, and make such alterations as the public interest may require. The committee might feel disposed to disband a part of the officers, and retain a part; but if the resolution passed in its present shape, the committee would be precluded from taking such a course. He hoped his friend would alter the resolution, so as to bring the whole subject fully before the Military Committee.

Mr. CANNON said, that his object was to bring the whole subject fully before the committee. He had no wish to limit its inquiries, having the highest confidence in them; that they would make such report as the good of the service and the situation of the country require. He therefore modified his motion, so as to make the proposed inquiry general.

Thus modified, the resolution was agreed to.

MILITIA FINES.

Mr. BUCHANAN submitted for consideration the following resolution:

Resolved, That a committee be appointed, whose duty it shall be to inquire and report to this House the causes why no part of the sum of \$243,609 41, the amount imposed as fines by courts-martial held under the authority of the United States on militiamen within the Commonwealth of Pennsylvania, for delinquencies which occurred during the late war with Great Britain, has yet been received into the Treasury; how much of the said sum has been collected from the delinquents by the late marshal and the present marshals of Pennsylvania, and their deputies, respectively, and what are the names and places of residence of such deputies; how much of the money collected remains in the hands of the deputies, and how much has been paid over by them to their respective principals; who are the sureties of the late marshal John Smith, and of his deputies, respectively; what is the amount of each of their bonds, and what is the prospect of recovering the whole or any part of the money remaining in their hands; what causes have heretofore prevented the institution of suits against the said John Smith, his deputies, and their sureties, to recover the militia fines retained by them, respectively; and under what

authority, by whom and to whom, the sum of \$41,531 77 has been paid out of the said fines to defray the expenses of the courts-martial by which they were assessed.

In offering this resolution, Mr. BUCHANAN said, that a sense of duty, and not a desire to give trouble and cast reflections upon any officer of this Government, compelled him to bring before this House the subject of the collection of militia fines from delinquent militiamen in Pennsylvania. He would, he said, state the facts connected with it, and which were so many reasons why the resolution should pass, without doing more at the present time. The State of Pennsylvania during the late war furnished her full proportion of men and of money to the General Government to enable them to carry on the contest. She furnished more than her quota of volunteers and militia. It however happened, that, owing to the pious and peaceful habits of the people of that State, conscientiously scrupulous of bearing arms, there occurred, in obtaining the number of men required by draught, a great number of delinquencies; which were more than made up by volunteers. It followed, therefore, that while Pennsylvania, as a State, can with pride and with pleasure declare that she fulfilled, in the most ample manner, all her federal obligations, yet there was a very large proportion of her citizens fined as delinquent militiamen. From the letter of the Secretary of War, of February 14, 1821, it appeared that out of nine States, on the citizens of which militia fines were assessed, and from eight of which returns have been received, the fines assessed on citizens of Pennsylvania amount to a larger sum than all the fines assessed on the citizens of seven of the States:

The assessment on Pennsylvania	amounted to - - - - -	\$243,609 41
On New Hampshire, New York,		
Maryland, Virginia, Ohio, Kentucky,		
East Tennessee, West Tennessee, to - - - - -		240,076

These fines were assessed, chiefly, if not altogether, within the years 1813, 1814, and 1815; and, strange and wonderful as it may appear, not one cent of that large amount assessed on citizens of Pennsylvania has yet reached the Treasury of the United States. It is within my own knowledge, said Mr. B., that very large sums of this money have been collected by the deputy marshals, and much distress has been spread over the country in levying these fines from the poorer classes of the citizens within our State. It is very natural that every State in the Union, particularly Pennsylvania, should be anxious to have the darkness which hangs over this subject dispelled, and the guilty agents exposed to the light of day. It is possible that by an investigation something may be obtained; if not, the authors of the shameful frauds which have been perpetrated will be dragged from the concealment in which they now lurk. On the 4th of December, 1820, at the instance of a gentleman from Pennsylvania, a resolution was passed by this House calling on the Secretary of the Treasury for information on the

JANUARY, 1822.

The Cumberland Road—Florida and Alabama.

H. OF R.

subject, which for some cause or other remained unanswered, but on the 2d of January, 1821, was renewed. And, said Mr. B., what answer has been given to it? It consists of six clauses, answers to which would embrace all the information we desire. The answer to the first is a letter from the present marshal, which Mr. B. read; from which, he said, it appeared that almost three years had been suffered to expire since this communication, and it does not appear that any measures have been taken to secure the books and papers.

The department could therefore communicate no information on the subject. The second query, how much money had been received into the Treasury, on account of these fines, was easily answered; not a cent had been received. The third query the department is unable to answer, except that \$3,671 30 in the hands of the present marshal, and \$2,546 60 in the hands of Lewis Deffebach, one of his deputies in Bucks county. The fourth query, as to the names of the deputies and the sureties of the late marshal, was not answered. Indeed, it appeared that the department never either inquired or knew who were the sureties of the marshal, or who were his deputies or sureties. It appeared, further, that no action had ever yet been instituted against the late marshal or his deputies on these bonds, except against one of the deputies. The object, therefore, Mr. B. said, of his resolution, was to obtain the information which the former vote of the House had failed to procure, &c.

The motion of Mr. B. was agreed to, and Messrs. BUCHANAN, MOORE of Pennsylvania, NELSON of Maryland, DURFEE, and RICH, were appointed the committee.

CUMBERLAND ROAD.

Mr. STEWART called for the consideration of a resolution, submitted by him some days since, to authorize an application of an unexpended balance to repair the Cumberland road, &c.

Mr. WILLIAMS, of North Carolina, moved to amend the resolution so as to direct the committee to inquire into the expediency, &c., instead of prescribing a positive direction.

Mr. STEWART said, that he was rather unwilling to adopt the amendment, as he was apprehensive this balance might shortly be transferred to the surplus fund. When he had the honor of submitting the resolution, a few days ago, it was suggested by a gentleman from Virginia (Mr. RANDOLPH) that this balance had been already transferred to that fund. He, (Mr. S.) had, however, since that time, inquired at the Treasury Department, and was informed that it had not yet been so transferred. And, since he was up, he would state to the House that the balance remaining of the money appropriated, to complete this road, had been reduced since the last session to less than 10,000. This sum, however, he thought, (if judiciously applied,) would be sufficient to effect such repairs as were immediately necessary to the preservation of the road. A few thousand dollars would do more to preserve it now than ten times

the amount a year or two hence—unless the Government did something, the road would soon be destroyed, and the money expended lost. It had been entirely neglected by the Government for a considerable time past. The fresh cut banks, loosened by the frost, had fallen in so as almost entirely to obstruct it in many places. The sum now asked to remove those obstructions and to repair the road was very inconsiderable, when compared with the millions expended along the Atlantic coast in the erections of forts, fortifications, light-houses, &c., which were kept in repair at the expense of the public Treasury. He spoke of the superiority of this public work over any other to which the attention of the Government had been, or could be, directed. He also alluded to the claims of the West, and interior, generally, where little or nothing had been expended, compared with the immense sums expended on the Atlantic coast for the benefit of foreign commerce.

To erect toll-gates he considered inconsistent with the liberal and enlightened policy which had conceived and executed this work. But were they to be erected, yet the amount now asked for would be necessary for the preservation of the road, which was in a state of rapid dilapidation, before any system establishing gates could be carried into effect. Upon the whole, considering that the sum asked for had been already appropriated to this object, he hoped the resolution would be adopted, and the Secretary of the Treasury be authorized to apply the balance in hand to repairing the road, &c.

Mr. BALDWIN had no objection to an inquiry into the expediency of directing the application of that fund to the repairs of the road—but he could not consent to pass the resolution in its present shape.

Mr. STEWART, thereupon, accepted the amendment as proposed, and the resolution was adopted.

FLORIDA AND ALABAMA.

Mr. MOORE, of Alabama, presented certain resolutions of the Legislature of that State, instructing their Senators and Representatives in Congress to use their exertions to obtain the annexation of certain parts of West Florida to the State of Alabama. Mr. M. moved that the reading of said resolutions be dispensed with, and that they be referred to the committee heretofore appointed on that subject.

Mr. FLOYD opposed any reference of the resolutions until their contents were known. He believed it was an unprecedented proposition.

Mr. MOORE observed that, having proposed the reading a few days since, of certain doings of the Legislature of Alabama, which was objected to, he had therefore thought it inexpedient to trouble the House now with the reading.

Mr. FLOYD replied, and said if he understood the tenor of the resolutions, as explained by the gentleman from Alabama, they were liable to another objection, for they were matter of instruction from the Legislature of that State to their Senators and Representatives.

Mr. SMITH, of Maryland, thought it improper to

H. of R.

The Bankrupt Bill.

JANUARY, 1822.

refer resolutions or other documents not directed to this House. An incidental debate grew out of the question of reference, of considerable length.

The SPEAKER expressed an opinion that the gentleman from Alabama (Mr. MOORE) was in order, and that the reference proposed was sanctioned by the practice of the House. He referred to various cases in which papers, not directed either to the House or its officers, had been referred as documents. Such were resolutions passed by the Legislature of Kentucky on the subject of the public lands—resolutions passed by the Legislature of Ohio, in respect to the United States Bank and internal improvements; and even private letters had been received, as in the case of M. Francieu, on the subject of a military establishment, and in the case of M. Cazen, on the cultivation of the vine, &c., which had been referred to the Committee on Agriculture.

Mr. SMITH, of Maryland, had understood the practice to be otherwise, and that instructions from the Legislatures of the respective States to their Senators and Representatives was a private matter between them alone. With every sentiment of respect, and with the view that a decision might be had upon a question of practice, he appealed from the decision of the Chair.

Mr. WOODSON thought it was unfortunate that the House should be drawn from a subject of deep interest and importance by an incidental question of order. Yet the resolutions that had been offered ought, in his opinion, to be listened to. It was unwise at this time, when it was known that there was a want of harmony between the General and State Governments, to add fuel to the flame, by taking an attitude of excluding the evidence of public sentiment. The document that had been offered conveyed a clear expression of the deliberate will of a State sovereignty, which, in his opinion, ought not to be shut out.

The subject was further discussed, at considerable length, by Messrs. BASSETT, LITTLE, RHEA, MOORE, of Alabama, WARFIELD, and WRIGHT, who supported the decision of the Chair, and by Messrs. ROSS, SMITH, of Maryland, McCoy, and BALDWIN, who opposed it.

Mr. TAYLOR said that there might have been cases in which resolutions, &c. had been referred, when not addressed to the House; but he knew of no instance in which such a reference had been made when the question was distinctly taken upon it. The uniform practice, he believed, had been, that no memorials or resolutions could be received or referred, unless they were addressed to Congress, or the Speaker of the House, or to a member, containing in it a request to present the same to Congress, which had been considered as equivalent to a direct application. This was the utmost limit to which the rule had been extended. The practice had been to introduce a resolution to appoint a committee, and then to refer such acts of State Legislatures to that committee, as proper documents for their consideration, containing evidence of the views of those from whom they originated. If a committee now existed on the subject-matter of these resolutions of the Legisla-

ture of Alabama, it would be proper to refer them to that committee as documents; but not if they originated a new subject, on which no committee had been appointed. He therefore inquired, whether such a committee had been appointed?

The SPEAKER replied in the affirmative, and referred to the Journal of the House showing such appointment some days ago, at the instance of the gentleman from Pennsylvania, (Mr. BALDWIN,) who had presented a petition from sundry inhabitants of West Florida on this very subject; and he (the SPEAKER) considered these resolutions as documents to be properly referable to that committee as evidence. But, were it otherwise, they would have to lie on the table until a committee should be created to whom they might be referred. Mr. SPEAKER adverted to the comity that was due from the General to the State Governments, who certainly were entitled to be heard in a style other than that of humble petitioners. Before the question was put,

Mr. SMITH withdrew his appeal.

FRIDAY, January 25.

The House proceeded to the consideration of the resolution submitted yesterday by Mr. STERLING, of New York, calling on the Secretary of the Treasury for certain information relative to the land offices; and, after some remarks from Mr. STERLING and Mr. COCKE in support of the motion, and from Mr. SLOAN against it—in the course of which discussion the resolution underwent some modification—it was agreed to.

THE BANKRUPT BILL.

The House then again resolved itself into a Committee of the Whole on this bill.

Mr. A. SMYTH, of Virginia, rose, and moved to strike out the first section of the bill; and the question thereon having been stated—

Mr. A. SMYTH, of Virginia, rose to address the Chair. He commenced his observations by remarking that he regarded this bill as containing a proposition that was calculated to sacrifice the liberties of the people, to destroy personal security, and the security of property; to abolish the mild and equitable systems of jurisprudence which the wisdom and policy of the States had ordained; to take the administration of justice out of the hands of independent judges, and to transfer it to obscure and irresponsible commissioners paid by the day. It changes, said he, the civil code of the country as to the collection of debts, conflicts with the administration of justice under State authority; with the acts against fraudulent conveyances; with the remedies in chancery for setting such conveyances aside, and transfers those to the federal courts. He considered it as a foundation on which nothing good could be erected; and the details of the bill, having received the deliberate approbation of its friends, having had their sanction in England and in this country in 1800, in 1818, and 1820, will be considered as necessary parts of the whole system, and if it can be shown that they are productive of mischief, it

JANUARY, 1822.

The Bankrupt Bill.

H. OF R.

will prove that the whole system is radically wrong.

Under the British system, and the bill on the table, the first inquiry presented was—who may become a bankrupt? The term merchant was well understood. It was susceptible of precise definition. But this law had received such a construction that, although it purported to be confined to them, it was in reality extended to others. If a man deals at all, he is subject to the liabilities of the English bankrupt law; nor does that liability depend upon the extent of his dealings.* By the British system, a buying and selling brings a man within its provisions. If a piece of cloth is severed, and one part of it is taken to the bleacher's to be whitened, and the other to the dyer's to be colored, the latter is held to be liable to the enactments of the bankrupt law, and the former is not—and the reason given is, that the bleacher bestows only his labor, and the dyer incorporates with it his colors, which brings him within the purview of the act. The bill on the table, it is admitted, contains various exceptions, and is so framed as to avoid this distinction. But every one who buys and sells, however small his profits, compared to his other income, and however few the instances of his buying and selling, is liable to be a bankrupt, unless he comes within some one of the particular exceptions. But, although none but merchants are entitled to partake of what are called the benefits of this law, yet it is far from the fact that no other class of the community is affected by it. By the English system, buying and selling horses will subject the farmer to bankruptcy; and a brick-maker who rents a piece of land and makes and sells bricks, will also be liable.† The reason of these cases will subject persons to the operation of this bill who little apprehend such a consequence.

I will now, said Mr. S., consider what is an act of bankruptcy. Here Mr. S. adverted to the bill as reported by the Committee on the Judiciary, and remarked, that there were no less than *fifteen* acts, each of which would make a man a bankrupt who should be so unfortunate as to fall within its construction. For instance, a debtor keeps out of the way, or absconds for half an hour, with a view to delay a creditor; and what is the consequence? He is a bankrupt. A creditor calls at his door in the morning for payment; the servant, by direction of his master, denies him; and, although he pays the same debt in the evening, yet it is then too late—he is irrecoverably a bankrupt,‡ and if that creditor should spare him, yet another, possessing himself of the evidence, may make his case remediless.

Again. A man is embarrassed. He cannot raise the money to pay off his debts, but wishes to secure his creditors. He is able to do it, for his property is adequate; and he is desirous to do equal and exact justice to all, and makes a conveyance of his property for that purpose; even

that is declared an act of bankruptcy! * And this, too, although the trader should continue solvent for three years afterwards. When one is declared a bankrupt, the declaration has relation back to the time of committing the act of bankruptcy, so as to avoid his subsequent acts. And should a conveyance be made preferring a creditor, or committing a creditor, however just and fair; and however meritorious the creditor to whom preference is given,† it avails nothing, the conveyance is void, and the trader who made it is a hopeless bankrupt.

There was another objection to the bill of no small importance. It was an objection of a negative character, for the bill contained no provision that a corporation, for instance a bank, should be a bankrupt—and this provision, whenever such a bill was about to be passed, ought to stand at the head of it. If there existed any case in which such a law would be justifiable and expedient, it would be in the case of a banking corporation. It was a duty imposed on Congress by the Constitution, to regulate the currency of the country, and they ought as far as in them lay, to restore soundness to the currency of the United States. But instead of extending the provisions of the bill to banking corporations, it was restricted to merchants, traders, and such others as were specifically enumerated. The great question then recurred—is a bankrupt law necessary for the commercial prosperity of the country? The gentleman from Pennsylvania, (Mr. SERGEANT,) who reported the bill, seemed to consider a bankrupt system as co-extensive with civilization. He spoke of the bankrupt systems of Holland and Scotland. But neither of those nations had a bankrupt law, discharging the debtor from the obligation of his contracts, until lately, and the people of both have been long celebrated for their commercial enterprise and intelligence. Holland, until lately had only the *cessio bonorum*, by which the debtor gives up his estate and preserves his personal liberty, without being discharged from his debts.‡ But it was not necessary to look abroad; it was sufficient to turn our eyes to our own country, which for successful enterprise, and commercial sagacity, yielded to no other. And yet this country, whose canvass whitens every sea, has grown wealthy and powerful without this appendage of civilization. Are our merchants less prosperous than others? Who possess the greatest share of personal estate in the Union? The merchants. By a recent examination it has been found, as the public prints tell us, that the single town of Boston owns one-fourth of all the wealth in the Commonwealth of Massachusetts. Mr. S. thought it was better that all classes of men should have the same system of collection; and that the Legislatures of the respective States could best judge of what was favorable to the community over which they ruled. He would not undertake to say what was the course adopted

* Cooper's Bankrupt Law, 123. Comyn, Digest, 4.

† 2 Comyn, Digest, 3.

‡ Cooper, 141. 2 Comyn, 5, 10.

* 2 Comyn, 8.

† Cooper, 146, 147, 148. 2 Comyn, 8.

‡ Cooper.

H. OF R.

The Bankrupt Bill.

JANUARY, 1822.

in other States; but in the State of Virginia the law on the subject was, in his opinion, adapted to their state of society, and adequate to all the purposes of substantial justice. Mr. S. here adverted to the attachment, insolvent, and other laws of Virginia, that protected the personal liberty of the debtor, on the one hand, and the rights of property of the creditor, on the other; and he contended that it was not this bill which could give prosperity to the people, but that it was the security of liberty and property by State regulations.

Mr. S. contended that the principles of the bill were an invasion upon the rights of man—and he would first pay attention to the weaker sex. It was an unquestionable error of the common law that it did not sufficiently guard the just rights of the fairer part of the creation. By marriage the husband acquires the whole personal estate of the wife, and, if he becomes entitled to take as tenant by the courtesy, he has the whole of his real estate during his life; whereas, if she survives him, she takes only one-third part of his lands for life, as dower, and a part of his personal estate, which is fixed by law.

In Virginia, a man without a cent marries a lady having one hundred slaves; if she dies tomorrow, the slaves are all his; but should he die tomorrow, and she survive, she gets back one-third of her own slaves for her life only. This, Mr. S. contended, was monstrous injustice, and it would be still more monstrous to extend the evil instead of applying a remedy. Yet, such would be the natural and inevitable tendency of the bill. Instead of softening the rigor of the common law, it gave new severity, and impaired those few privileges of women which the common law and laws of the States had left. By the common law, choses in action, such as debts, stocks, and the like, survived to the wife in case the husband did not reduce them to possession during his life. But, by this bill, the assignees may come in, and sweep away from her all that the delicacy, or honor, or sense of justice of her husband had spared. It takes for the payment of the husband's debts what does not yet belong to the husband—what would survive to the wife if she should outlive the husband; and thus adds to the injustice of the common law. By the Spanish law, when the husband was made a bankrupt, the wife was entitled to dower.* It was a provision characteristic of the chivalry of a gallant nation, and deserving of example. If the law, said Mr. SMYTH, is to be made for the merchants and for their benefit alone—then, on them only should it operate. But how does it stand? I represent, said he, a large district, which contains fifty-five persons engaged in mercantile pursuits—merchants, pedlars, and merchants' clerks, and near ten thousand persons employed in agriculture. The fifty-five are, to those engaged in agriculture, as one to one hundred and fifty. If, indeed, that small proportion wished for the passage of the law, and they only were to be affected by it, it would not be so objectiona-

ble. But the difficulty is, that all the rest of the community must severely feel its effects. A merchant becomes bankrupt at Richmond, and has a debtor four hundred miles in the interior, who is dragged that whole distance to answer to such interrogatories as the commissioners may, in their wisdom, see fit to propound. Again—if he disputes the claim made against him, he is liable to a heavy punishment by forfeiture of double the value of the debt claimed, on the ground of concealment. Nor is this all. The doors of any man in the community may be broken open on suspicion, either real or pretended, that the bankrupt is within. The sanctuary of private repose is liable to invasion, and so far from his house being his castle, according to the maxim of the English law, it is subject to be violated by every minion of authority. In England no one can, at any time, break and enter but the sheriff.* He is a known public officer. But here the person who is to exercise this great power is not even sworn. He is the creature of the commissioners, and he derives from them his authority. Sworn officers cannot be had. It would require one thousand in the United States duly to execute this system; yet to these unsworn and irresponsible persons is confided this tremendous power. Again—a trustee undertakes, with the most benevolent motives, to manage an estate. Within ten days he must disclose it, and if he fails to do so, although through ignorance, not knowing it to be his duty to disclose the trust, yet he is liable to a heavy forfeiture of twice the value. The farmers, also, are subjected to another great inconvenience. When they contract a debt with a merchant in the same State, they are liable to be sued only before the State courts—but, by an act of bankruptcy on the part of the merchant, they will become liable to be sued before the federal court, and subjected to all the increase of cost, trouble, and expense, that must necessarily attend it. This bill violates the rules of evidence. It gives a remedy for a simple contract debt, barred by the statute of limitations, on the mere affidavit of the creditor, and on such an affidavit of such a debt, the person against whom it is claimed may be declared a bankrupt. A certified copy of the commission and assignment is made conclusive evidence that the party is a bankrupt, although declared so without a hearing, and in his absence.

It has been said, by the gentleman from Pennsylvania, (Mr. SERGEANT) that the passage of the bill would give great additional security to debts due to the United States. But, in examining the bill, he (Mr. SMYTH) did not find that such would be the effect. On the contrary, he apprehended the reverse would happen. The United States would be less secure, they would lose their priority, upon the assignment being made, on the ground that the property was no longer the property of the bankrupt, but became vested in the assignees before any prior lien of the United States had attached.† At all events, so much as this was certain, that the claims of the States must be

* Cooper's appendix.

* Coop. 182.

† Coop. 334.

JANUARY, 1822.

The Bankrupt Bill.

H. OF R.

barred. For them no provision was made. They were not entitled even to come in for a share in the dividends. The term "body politic" was used in the bill, but was applied only to corporations. In favor of the bill it had been urged that it treated all men alike, and that no preferences were allowed. To his mind that circumstance afforded a most conclusive argument against it. Justice and policy required that preferences should be made. In Virginia the private debt of highest obligation was that of the guardian to the ward. This was of a sacred character. It was of a trust created by law, and it would be iniquitous to place it on an equal footing with ordinary debts. Rents were also entitled to a secondary preference, and such they ought to have—and in this respect the law of Spain, which preferred rents and servants' wages, had a decided advantage over the bill on the table. In framing this law, the great object has evidently been to guard the mercantile interest, and by its operation, even debts barred by a statute of limitation, may have equal force with the claim of the client on his attorney, the suitor on the sheriff, or of the ward upon his guardian. This, Mr. S. contended, was highly impolitic and unjust, and he expressed his sentiments at considerable length upon the propriety of giving those preferences to honorary debts, which the common sense of mankind had by an almost uniform consent accorded. This bill, he remarked, was founded upon principles which ought not to be recognised. The people, said he, are entitled to uniform government. This bill is partial and unequal. It gave to the wealthy merchant creditor an energetic and speedy remedy, that was not given to any other class of the community. In this country the Constitution recognises no privileged orders, and it is contrary to the genius and spirit of our Government to exalt one class, by the depression of another. The operations of the Government should be uniform, for all the citizens were entitled to an equal legislation. Another objection to the law was, that it made provision to exempt from taxation the property sold under the act. What right had Congress to say that the State shall not levy such tax? Or why shall the United States give up its revenue, derivable from sale at auction, for the benefit of merchant creditors, more than for the benefit of underwriters? There might be a surplus, and there was no just rule, which he could conceive, on which this claim on the United States could be founded.

Again, if an individual should sue an officer concerned in executing a commission of bankruptcy, he is liable, if cast in the suit, to pay double costs; whereas, if he recovers, he is entitled only to single costs. What was the object of this? To discourage the injured man from appealing to the laws of his country? Yes, and to bear down the people under the power of the commissioners. If any difference was admitted, the rule should be reversed, and the man who acted under color of the law, and abused his authority, should be liable to the greater penalty. Again, the bill violates the authority of the State sovereignties. It punishes the State officers for doing what they had a

right to do under the State law. By the 40th and 41st section of the bill, a jailor is made liable for an escape. Where is the warrant for a law like this? The sheriff and jailor of a State owe no official duty to the General Government. They derive their powers from the States, and to the States only are they amenable. They are not connected with the Government of the United States, and yet by this bill the jailor is compelled to perform a duty without fee or reward. He is required to show the person of the prisoner, whenever required, under the pains and penalties of an escape, and liable to a fine of three thousand dollars if he suffers him to breathe the fresh air of Heaven! But the greatest indignity to State sovereignty remains to be noticed. If a man is confined in prison by the highest judicial authority in a State; yet by the 23d section of the bill he may be released and discharged by the issuing of a warrant from an obscure and petty commissioner. We have been jealous enough of the interference of the Supreme Court with the judgments of the State courts; but now they are to be made void and of no effect, by a commissioner.

But it had been urged as a strong argument in favor of the law, that it provides a relief for the unfortunate debtor. If this suggestion were founded in fact, he should look to the bill with a more favorable eye. But he had examined it with attention, and he could find nothing in it decidedly favorable to the debtor. It was altogether in favor of the wealthy merchants. This would be found in every section. So far from being favorable to the debtors, it was hard and cruel and severe upon them, especially those of the middling class. Mr. S. would agree that those who were now insolvent were anxious for its passage; but if they thought it could afford them relief, they deluded themselves. They were not included in its provisions. The law did not apply to those who were already insolvent. To take the benefit of it they must be "actually using" the trade of merchandise. But those who have already failed, cannot be said to use, in the present tense, the trade of merchandise. That time has passed by—or should they undertake it again, yet they would be cut off by another provision—for those who may have become traders, for the purpose of taking the benefit of the law, are, by the 34th section, specially excluded from it. All present insolvents, who are not now traders, are forbidden to expect protection from a certificate obtained hereafter. Their hopes are blasted. A certificate will yield them no protection; and, what is worse, this question may be raised in every case. Nor is the certificate available, if there has been fraud or concealment, which of course is liable to endless question. Again: The bankrupt is not entitled to a certificate, unless the commissioners will certify that he has made a full discovery. This admits of great latitude of construction. They must certify positively in a case in which positive knowledge is difficult to obtain, and the want of which nothing else can supply. But suppose this certificate of the commissioners obtained—even then the certificate of

discharge is not granted unless two-thirds in number and value consent to the discharge of the bankrupt. Suppose he is indebted thirty thousand dollars to fifty persons, and that so much as eleven thousand dollars is due to three of them, and that these three, for whatever cause, refuse to sign the certificate of his discharge, what is his situation? After all the indignities he has suffered—after being imprisoned perhaps in a jail, his family scattered, and his property swept into the hands of others, he is left to the conscience of a moneyed Shylock to determine whether the laws shall operate or not for his relief. Even a single creditor, if he owns a third of the debt, can deny him the benefit of the law, avowedly passed for his relief, and this too after he has been dragged to jail and yielded up his person and property to the operation of the laws of his country. It has been said, by the gentleman from Pennsylvania, that a failing debtor has now too much power, yet he occasionally attempts to excite your compassion for the “poor bankrupt.” I, too, said Mr. S., am a friend of the “poor bankrupt,” and will not consent to take from him any of the power he now possesses to effect a compromise, without an equivalent. I am unwilling to put him entirely in the power of his creditor. I would leave him to make the best terms with him he is able. But what is the effect of the bill? Not only a power is given to the creditor to distress his debtor, but a motive is added to induce him to do it, by withholding his assent to the certificate of discharge, for if he omits to give it, and an estate should fall to the bankrupt by descent or devise, it would inure to the benefit of the creditor. Your law will be less humane than that of England. There, if the bankrupt has obtained three-fifths of his creditors in number and value, his discharge is complete, while you require two-thirds, and if his creditors will not consent, he may cite them before the Lord Chancellor to show reason why they should not yield their assent.* But no such promise is to be found in this bill.

There was no Constitutional power, Mr. S. contended, to discharge a man from his debts. This was a Government of delegated powers. It was not like original sovereign States who had all powers; but such powers as were not expressly given, were reserved. The question then here is, where is the Constitutional authority to take the property of A and to give it to B? Is such a power expressly given? No; it will not be pretended. Is it given by implication? No; it is forbidden by strong implication. The States were prohibited from impairing the obligation of contracts; and can the General Government prescribe to others moral obligations to which it is not bound itself to yield obedience? Can Congress say that, from and after the passage of a law, a horse belonging to A shall belong to B? Such an act would be a violation of those social and fundamental principles on which the Government is based, and by which it is held together. Such an act would be not only beyond the power of a Le-

gislation, but even a Constitution; or the people themselves could never sanction it. The obligations of justice and right are paramount to all others. Even the people, in their primary and collective capacity, have no power to divest individuals of their rights or property. A debt is property, and is subject to the same rules, and entitled to the same privileges and protection. It is provided that this Government cannot take private property for public use, without giving to the owner a fair and adequate compensation. It is also true, as I contend, that Government cannot take private property for private use, even with compensation, much less without it. No Government has the moral right to do injustice of this kind. It may have the power to effect it, but to exert that power would be an act of tyranny.

Mr. S. also here adverted to another imperfection in the bill. By the English law, the commissioners were bound to refund any surplus to the bankrupt of his estate that might exist after the payment of his debts. But in the bill no such provision was made. It was declared, indeed, that the surplus should revert to the owner; but no method was pointed out, nor course prescribed, by which the reversion could be compelled. It seemed to be thought by some that the bill was a universal panacea; that it was the philosopher's stone; and would yield unlimited blessings to all to whom it reached. That it was a powerful measure, would be admitted by all, and it must therefore bear hard somewhere. In his opinion, it was the poorer and middling classes of the mercantile community that would feel its pressure most severely. To the rich merchant it would give a most speedy and efficacious method of collecting his debts; but, by a small slip in his concerns, the poor man is struck as by a clap of thunder; and, when the bolt falls, his case is irrecoverable. The bill gives to the rich creditor all he can ask; and operates upon the middle merchants, who are the bone and sinew of the mercantile community, with a relentless and undeserved severity. If a man of that description becomes obnoxious to a rich man, his ruin can be easily effected. A servant may declare that he was instructed to deny his master, and the latter is irrecoverably gone. Even though nineteen-twentieths of his creditors are willing to give him time, that he may extricate himself from his difficulties, and are averse to making him a bankrupt, yet the twentieth has him entirely in his power.

The insolvent laws of the States, Mr. S. believed, were preferable to a general system. They were adapted to the situation and circumstances of those on whom they were to operate; whereas, this law was of an arbitrary character—it was cruel, and abhorrent to the feelings of a free and generous people. We ought not to familiarize ourselves to laws of this kind. It was a part of our Constitution that excessive fines should not be imposed, nor cruel punishments inflicted. And yet, turn to the nineteenth section of the act, and you find four several offences which a bankrupt may commit, punished with ten years' imprisonment. Is this in the spirit of our humane institutions? The ordinary punishment for perjury is

* Cooper, 115, 116.

JANUARY, 1822.

The Bankrupt Bill.

H. OF R.

three years' imprisonment; but, in the case of a bankrupt committing perjury, the punishment is ten years' imprisonment; and, such are the singular provisions of the bill, that, wherever the debtor or his friends swear false, the false oath is declared perjury; but wherever the creditor or his friends swear false, it is no offence at all, as, on examining the second, fifth, seventh, twenty-first, and thirty-sixth sections, you will perceive. At least, it is made no offence by this bill. Is this equal and exact justice? Mr. S. also adverted to other harsh features and excessive forfeitures, that the bill provided, among which was \$1,000 for concealing, or even receiving the bankrupt. Suppose a kind and indulgent father is reduced from affluence, and seeks protection from pursuit under the roof of an affectionate son—a son who had been supported by his tenderness and nurtured by his care. He appears at the gate, and asks for admittance. Shall the son refuse him? If he receive him he is ruined. The fine that hangs over him beggars him and his children. If he denies him he agonizes his own heart, and stains his reputation with black ingratitude. And shall a law be passed making filial piety a crime—a law which cannot be obeyed without incurring dishonor? It was a cruel and iniquitous system. But, by these remarks, he would not be understood to implicate, in the remotest degree, the gentleman (Mr. SERGEANT) by whom the bill was reported. It was taken from the British law, and remodelled after the act of 1800. Not a clause of it was from the pen of the gentleman from Pennsylvania. A difficulty lay in the system, it being the English system, which it was not in the power of human capacity to render beneficial to society. It was a system calculated only to fill the pocket of the merchant creditor; and, by referring to the details of the bill, it would be seen that many of the enormous forfeitures and penalties which it prescribed, went to the use of the creditors, so that they might even grow rich upon the violations of the law. Every thing was brought within the creditor's grasp. Not even the *habeas corpus* was spared; that Constitutional safeguard of our rights was liable, by the fortieth section, to be suspended, and the security it yields destroyed. The course of the administration of justice was to be changed; the courts of the United States are to take the place of the State tribunals, and a new and productive source of litigation to be opened. It would, indeed, be speedy, so far as it regarded the man, for he would be speedily destroyed; but not the cause. The old law was in operation but eighteen months, and yet eighteen years did not terminate all the cases that arose under it. It had been said by the gentleman from Pennsylvania, (Mr. SERGEANT,) that that act was a party measure. He (Mr. SMYTH) would agree that it was so in its enactment, but not so in its repeal; and he adverted to the ayes and noes on the question, to prove that it was repealed by a large majority of both parties.

But there was another Constitutional objection that, to his mind, was insuperable. The Constitution provides that the judicial power of the United States shall be vested in the Supreme

Court, and such courts as Congress shall, from time to time, ordain and establish; and that the Judges shall be independent in the tenure of their office, and shall receive a fixed compensation. Under this bill, a large number (probably not less than 3,000) of judges are to be appointed, by the name of commissioners. These persons will be in fact judges. Judicial powers are confided to them,* and they have been recognised in England as courts of justice, exercising equitable powers. Their courts are not indeed courts of record in that country, but they would be so here, for copies of their proceedings are made evidence. By the express terms of the bill they are recognised as exercising judicial power. They are said to "adjudge," and their acts are spoken of as "judgments." A judge is he who applies the law to the facts of a particular case, and declares the result. Can there be a doubt that that declaration which divests a man of property and liberty in pursuance of a law, is a judgment? Then, if these commissioners exercise judicial power, they cannot be appointed by the President alone; the concurrence of the Senate is also necessary. Their tenure of office should also be during good behavior, and, instead of receiving hireling wages, at five dollars per day, as the bill provides, they should have a compensation pursuant to the Constitution, which should be neither increased nor diminished during their continuance in office.

In addition to all these objections, there was another, which to his mind was of still greater importance. It was an objection that lay at the foundation of our free and equal institutions. This bill proposed to incorporate the mercantile community with a system of laws peculiar to themselves—to embody them together, and to separate them from the rest of the community. It was calculated to subject the middling class of traders to the power of the wealthy merchants, and to give to the latter distinctive and corporate powers. They would be as completely a corporation as the Bank of the United States. And what would be the effect? The merchants have already, as one of them formerly told us on this floor, nineteen-twentieths of the moveable property in the country, and all the banks. The result would be that the banks would govern the city merchants, the city merchants would control the merchants of the country, and the latter, in their turn, would give law to the rest of the community. Of all aristocracies, a moneyed aristocracy was most to be avoided—and never could it be wise in this Government to amalgamate the force of this powerful order, and give to it an interest and sympathy diverse from the rest of the people. If, unfortunately, such a body should be so organized, it was not difficult to discern that they would, ere long, fix the Government of the United States, and control its destinies.

The laws should be framed to promote the happiness of the people, and to suit the great body of the people. If the power of Government was the object of our legislation, it might be policy to sacri-

* Coop. 173, 174, 262, 1 Adk. 77.

H. OF R.

Proceedings.

JANUARY, 1822.

rice every other consideration to that of wealth, which constitutes the sinews of power. But the happiness of the people is the first object of Republican Government, and wealth and power are only to be regarded as they promote and secure that happiness.

Mr. SMYTH concluded by expressing a hope that the motion to strike out the first section would prevail, and the bill be thereby destroyed.

On motion of Mr. MALLARY, the Committee rose, and obtained leave to sit again; and the House adjourned to Monday.

MONDAY, January 28.

Mr. EUSTIS presented a petition of Amasa Stetson, of Boston, in the State of Massachusetts, praying to be allowed, in the settlement of his accounts, as a deputy commissary of purchases in the late war with Great Britain, the interest which he has paid on moneys borrowed by him in his official capacity, and which were indispensably necessary to enable him to comply with the pressing and urgent orders of the Government; as also the discount which he was compelled to pay on Treasury notes remitted to him for public purposes; and for services rendered by him out of the line of his official duty, at the urgent request of the Government.—Referred to the Committee of Claims.

Mr. COLDEN presented a petition of sundry merchants and traders in the city of New York, praying that the restrictions imposed by law on the trade which formerly existed between the United States and the British West India islands and colonies may be repealed.

Mr. HOOKS presented a similar petition from the inhabitants of the town of Wilmington, in North Carolina.

Mr. COLDEN also presented a petition of the seamen of the port of New York, praying that more ample and adequate provision may be made for the relief of sick and disabled seamen.

The above petitions were referred to the Committee of Commerce.

Mr. FULLER presented a petition of sundry officers of the Navy, and of the Marine Corps of the United States, praying that the "United States Naval Fraternal Association," for the relief of the families of deceased officers, may be incorporated; which was referred to the Committee on Naval Affairs.

Mr. WRIGHT presented a memorial of sundry inhabitants of East Florida, praying that the two provinces of East and West Florida may continue under one government, and that they may be advanced to the second grade of territorial government; which memorial was referred to the Committee of the Whole to which is committed the bill for the establishment of a territorial government in Florida.

Mr. WRIGHT also presented a memorial of the City Council of the city of Pensacola, in West Florida, praying that certain public lands therein described may be granted to the said council for the use and benefit of said city of Pensacola; which was also referred to the Committee of the whole

House to which is committed the bill for the establishment of a territorial government in Florida.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill for the relief of Benjamin H. Rand; which was read twice, and committed to a Committee of the Whole.

Mr. SERGEANT, from the Committee on the Judiciary, made an unfavorable report on the memorial of the General Assembly of the State of Alabama, for permission to tax certain lands; which was read, and ordered to lie on the table.

Mr. SERGEANT, from the same committee, reported a bill for the relief of Charles A. Swearingen; which was read twice, and committed to a Committee of the Whole.

Mr. SERGEANT also reported a bill for the relief of William Nichols Earle; which was read twice, and committed to a Committee of the Whole.

The Committee on the Judiciary were discharged from the further consideration of the resolution adopted on the 22d instant, directing that committee to inquire into the expediency of amending the law making the records and judicial proceedings of the several States evidence in each particular State.

Mr. EUSTIS reported a bill for the relief of Robert Purdy; which was read the first and second time, and committed to a Committee of the whole House on Monday next.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives:

I transmit a report from the Secretary of War, together with the documents which accompany it, containing the information requested by a resolution of the House of Representatives of the 22d instant.

JAMES MONROE.

WASHINGTON, January 28, 1822.

The Message was read, and referred to the Committee on Indian Affairs.

Mr. HUBBARD moved that the House do reconsider the vote taken on Friday last, the 25th instant, concurring with the Committee on Pensions and Revolutionary Claims in the resolution submitted in their report on the petition of Moses Bursill. And on the question, Will the House reconsider the said vote? it passed in the affirmative; and, on motion of Mr. BUTLER, it was ordered that the said report and petition be recommended to the Committee on Pensions and Revolutionary Claims.

Mr. CONDUCT moved that the House do reconsider the vote taken on Friday last, the 25th instant, concurring with the Committee on Pensions and Revolutionary Claims in the resolution submitted in their report on the petition of Aaron Blaney. And on the question, Will the House reconsider the said vote? it passed in the affirmative. And it was then ordered that the said report lie on the table.

Mr. HUBBARD moved that the House do reconsider the vote taken on Friday last, the 25th instant, concurring with the Committee on Pensions and Revolutionary Claims in the resolution submitted in their report on the petition of James

25 JANUARY, 1822.

Apportionment Bill.

H. OF R.

Wood. And on the question, Will the House reconsider the said vote? it passed in the affirmative. And it was then ordered that the said report be committed to a Committee of the whole House to-morrow.

On motion of Mr. SMITH, of Kentucky, a committee was appointed to inquire into the expediency of abolishing imprisonment for debt in all cases of process issuing from the courts of the United States, and that they have leave to report by bill or otherwise. And Messrs. SMITH, of Kentucky, NELSON, of Virginia, and CUTHBERT, were appointed the said committee.

Mr. WALWORTH submitted the following resolution, viz:

Resolved, That the President of the United States be requested to cause to be communicated to this House such information as may be obtained from any report of the Commissioner of the General Land Office, heretofore made on the subject, or from other documents in any of the public offices, relative to the pretended claim of Jonathan Carver to certain lands within the United States, near the falls of St. Anthony.

The resolution was ordered to lie on the table one day.

Ordered. That the letter from the Secretary of War, laid before this House on the 22d instant, accompanied with statements, showing the application and expenditure of the sum of thirty thousand dollars, appropriated on the 11th of April, 1820, for the holding of treaties with the Cherokee and Creek tribe of Indians, be committed to the Committee of the Whole to which is committed the joint resolutions making appropriations for carrying into effect the articles of agreement and cession, entered into between the United States and the State of Georgia, on the 24th of April, 1802, and for other purposes.

The House proceeded to consider the report of the Committee of Claims, made the 27th ultimo, and the petition of King and Thirber. Whereupon, it was ordered that the said report and petition be recommitted to the Committee of Claims.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act authorizing the transfer of certain certificates of the funded debt of the United States;" in which they ask the concurrence of this House.

Mr. ABBOT communicated to the House three resolutions of the General Assembly of the State of Georgia, viz:

First. Requesting their representation in Congress to use their exertions to obtain the permanent assent of Congress to an act of that State, passed on the 20th December, 1804, giving certain fees on the tonnage of vessels as a compensation to the health officer and harbor master of Savannah; which resolution was referred to the Committee of Commerce.

Second. Soliciting a longer continuance of the commission employed in the examination of the claims of citizens of Georgia on the Creek nation of Indians, the payment of which was assumed by the United States, under a treaty with the said Creek nation of Indians, entered into at the Indian Spring, on the 8th of January, 1821; which resolution was committed to the Committee of the whole House to which is committed

the joint resolutions making appropriations for carrying into effect the articles of agreement and cession entered into between the United States and the State of Georgia, on the 24th of April, 1802, and for other purposes.

Third. Soliciting that provision may be made for holding a treaty with the Cherokee nation of Indians, for the extinction of the right of soil of aforesaid Indians, to certain territory, for the use of the State of Georgia; and that, in such treaty, provision may be made for satisfying the claims of citizens of that State against said nation, for spoiliations heretofore committed, and for which indemnity has been promised, in the several treaties of Augusta, Hopewell, Holston, and Philadelphia; which resolution was also committed to the Committee of the whole House to which is committed the joint resolutions aforesaid.

APPORTIONMENT OF REPRESENTATIVES.

Mr. CHAMBERS moved to take up the bill, now lying on the table, for the apportionment of Representatives according to the fourth census. The motion, however, was declared not to be in order, the unfinished business, (the bankrupt bill,) having preference in the orders of the day.

On motion of Mr. ROCHESTER, then, all the orders of the day preceding the apportionment bill were postponed; and that bill taken up.

The question being on concurrence with the Committee of the Whole on adding 2,000 to the ratio of apportionment, so as to make it 42,000—

Mr. SMITH, of Maryland, hoped the House would not concur in the number of 42,000 for the ratio, as reported by the Committee of the Whole. He wished it to remain at 40,000, as originally reported to the House by the select committee. The number of 40,000 would be a ratio which would suit more States, in his opinion, than any other. It would adapt itself peculiarly to the States of Maine, New Hampshire, Massachusetts, Rhode Island, Pennsylvania, Maryland, Virginia, Georgia, Louisiana, and New York, and would leave them with very inconsiderable fractions, as the table of the census would show. He thought such a reduction was also due in fairness to the State of Rhode Island, the representation of which would be reduced one-half, and be then left with a fraction of more than 41,000 unrepresented. The ratio he had proposed would increase the number of Representatives only twenty-five, which he thought would not be materially inconvenient nor injurious to the despatch of public business. As 40,000 would suit so many States, he hoped the House would establish the ratio as originally reported to this House.

Mr. ROCHESTER, of New York, said that he agreed in opinion with the gentleman from Maryland, (Mr. SMITH,) who had just addressed the House, and had intended to have proposed an amendment fixing it at 40,000, the same number which he had the honor to propose when in Committee of the Whole, but he supposed that his object would be as readily attained by speaking to the question of concurrence or non-concurrence, because, in the event of a vote of non-concurrence, the bill would then be open for any amendment, whether contemplating a higher or a lower ratio.

[To the propriety of this course the SPEAKER assented.] When Mr. R. proceeded by stating that he should not have persisted in his motion had he not some reason to believe, at least to hope, that the vote given in Committee of the Whole did not indicate with certainty the present opinions of all the gentlemen who then passed upon the subject. He (Mr. R.) had intended to have addressed the Committee; but the several questions then made were taken with a rapidity which defied interruption, and he was in hopes that some member from New York, older than himself, and more practised in debate, and whose sentiments accorded with his own, would have favored the Committee with his views. In this he had been disappointed, or the time and patience of the House would not now be trespassed upon by him.

Coming, as he did, from a district vastly larger than two of the thirteen old States, (Rhode Island and Delaware,) he might say nearly equal to both of them, and much more populous than three of the new ones, (Mississippi, Missouri, and Illinois,) indeed, almost as much so as the three united—and coming also from a State first in population, and second, he trusted, to none in her disposition to give effect, as far as practicable, to the principle of equal representation which distinguishes ours from all other Governments, he with pleasure yielded his assent and convictions to the powerful appeal made by the vigilant member from Rhode Island, (Mr. DURFEE.)

He felt the more reconciled to this course, from a persuasion that it would correspond with the feelings and wishes of the smaller States, besides Rhode Island, *e. g.* Maryland, Georgia, New Hampshire, Louisiana, and perhaps Alabama, which he denominated smaller ones, having reference only to their present physical strength.

Although he had proposed 40,000, he was not wedded to that particular number; he thought it, however, high enough; he might be induced to depart from it for the purpose of compromising on some lower one. Nor was he by any means certain, that, if the final decision depended upon his yea or nay, he would not say, let the existing ratio remain unaltered. In making his proposition, however, he supposed he named the lowest number which, in any probability, could carry either in this House or in the other. In this opinion he was fortified by that of the numerous select committee to whom this subject was originally referred; and the vote already taken confirmed the presumption that any attempt to retain the ratio at 35,000 must be fruitless.

He was not insensible to the claims of Delaware; they were of a highly meritorious character, and of long standing. Neither was he ignorant that the cause which influenced the House in postponing the consideration of this question until to-day, still existed. He regretted the absence of the worthy member from Delaware, because no person appreciated more highly than he did that gentleman's ability to enlighten the House on this or any other subject. He regretted also the cause of his absence. But, in spite of all dispensations, we have an urgent duty to discharge. Many of

the State Legislatures were now in session, waiting impatiently for the settlement of this question by Congress, that they might be enabled to enact laws adapted to it. Some days must necessarily transpire before Congress can dispose of it, and then some weeks must elapse before the several States can be advised of the result in such a manner as to justify them in acting upon it; and, after they were possessed of the requisite information, he was pretty certain there would be some delay, and not a little embarrassment, (in some of the States at least,) in reorganizing the Congressional districts conformably with the new ratio. He was glad, therefore, that the House seemed determined to dispose of the subject, as much further delay would doubtless be productive of very serious inconvenience.

As it respected Delaware, he need not tell the House that, although she was not now represented in this House, she would have an opportunity, before any law could pass, of being heard in another quarter, where every member of the Confederacy stands upon an equal footing in point of numerical strength. Under such circumstances, it would be temerity in him to volunteer as the advocate of her particular interest in this question.

In the remarks which he intended now to make, and they should be but few, he proposed to take a cursory general view of the subject.

Looking at it then in this view, he thought that regard ought to be had to the present aggregate population of the United States, compared with what it was ten years ago, and that the ratio now to be adopted should be graduated upon the increase in a *pro rata* proportion, conforming by progressive analogy to the standard then assumed by Congress.

This, he conceived, was not a mistaken consideration, but it is one which would, in some measure, he lost sight of, if we transcend the number of forty thousand. He also fully concurred in the opinion expressed by the honorable the chairman of the select committee to whom this subject was originally referred, (Mr. CAMPBELL,) that some regard ought to be paid to the relative numerical strength of the House of Representatives and of the Senate. It is thus that we can best preserve to the people the benefits of that check in its legislation which the framers of our excellent Constitution contemplated. He had very little doubt (without intending the least disrespect to any man or set of men) that if ever the day arrives when the hydra of aristocracy or tyranny unmask itself in any branch of our Government, its antidote and counterpoise are to be sought for in the intelligence, the firmness, and especially in the direct responsibility, of this essentially the popular branch, and in order to increase the chances of securing this intelligence, firmness, and responsibility, to him it was a perfectly obvious proposition, you must increase the numbers of the popular branch, or, in other words, you must go on *pari passu* with the addition of new States to multiply the immediate representatives of this growing people. There is one objection which he admitted was at first blush plausible enough, it is, that if the number of Representatives be aug-

JANUARY, 1822.

Apportionment Bill.

H. OF R.

mented, their body will be too numerous and unwieldy; indeed, one honorable gentleman (Mr. WOOD) had asked triumphantly, "Where will you put them?" "This Hall can contain little more than the present quota." He forbore to comment upon this suggestion, because he doubted whether it was seriously thrown out; but as regarded the main objection itself, notwithstanding its admitted plausibility, and notwithstanding the apparent sanction which it may be thought to have received from a project originated *elsewhere*, contemplating a Constitutional limitation of our numbers, he confessed that he was not inclined to attach much weight to it; he believed that in a Republic, in a representative democracy, (such as ours is emphatically,) a national legislation composed of men coming from among the great body of the people, and the objects of their own free choice, biennially made, cannot well be too numerous, taking care however to avoid a dangerous extreme on the one hand and an absurd one on the other, by observing that proper medium which will combine sufficient despatch with sufficient deliberation, and provide against an useless expense of the public money—for he held that legislators, like all other public servants, ought to be fairly and fully paid. On the point of expense, viewing it as a consideration, which should aid in guiding us to a decision, he looked upon it, in this question, but as the dust in the balance. It was urged the other day by two gentlemen, (Messrs. KEYES and VAN WYCK,) with some zeal, laudable and sincere he was sure, but somewhat misdirected he thought. On this score he would state one fact, that is, the extra sum which would be required in order to defray the annual expenses of some fifteen or twenty additional members, would doubtless fall short of the amount which the debate on the partial appropriation bill has already cost the nation during the present session. When he made this remark he did not mean to intimate an opinion that that debate was improperly protracted—far from it—on the contrary he believed that its tendency had been salutary; it had awakened in this House a spirit of free inquiry and legitimate scrutiny into the acts of public agents, no matter how elevated their stations, and if it had answered no other valuable purpose it had at least afforded to the distinguished individual whose conduct was the subject of that debate an opportunity of presenting his agency in such a point of light that he may sustain his towering reputation, and the high eminence to which he has attained, not only unsullied, but he trusted unsuspected. He begged pardon for this digression, but as regarded the item of expense which led him to it, viewing it as he did, on a question of this magnitude, but as a drop in the ocean, he would confine himself to but one other remark upon it, and that was to remind his worthy colleague (Mr. VAN WYCK) and the venerable gentleman from Vermont, (Mr. KEYES,) who pressed it into their service, that they would doubtless find ample relief before the termination of this session in (what comported with his own opinions) advocating a retrenchment of salaries in general to the stand-

ard of the good old times of economy, which have been so much dilated upon of late in this Hall, and which it seems were so justly lauded by all parties at this day. He said *justly*, because they always commanded the tribute of his humble approbation.

There was one important point to be gained in settling this question, one great object which should be constantly kept in view—it was, that the several Congressional districts be left of such convenient size, both as to territory and population, that the members may reasonably be expected to be familiar with the wants and wishes, character, and political interests, of their respective constituents. This object he would not relinquish, even if the consequence was to make this body vastly more multitudinous than it is at present; but to effect this desirable object in a great degree, so far (at all events) as a plurality of the States, and indeed as all the more dense settlements of the Union, are to be benefited by it, the result so much deprecated by some gentlemen will not take place, provided the ratio of representation is not reduced to a lower point of depression than forty thousand at this time. It will not be forgotten that ours is a duty of high responsibility, and that the powers with which this House is clothed, particularly as guardians of the Treasury, are such as ought never to be exerted except with the most abundant caution, and after the most deliberate reflection, and, if you please, the most deliberate discussion. If there be any weight in the objection, that, by increasing the House of Representatives some fifteen or twenty in number, you thereby add to the sum of discussion, and to the stock of materials for discussion, it is one which applies with almost equal force to the present number. He was aware that this had been a fruitful subject of inconsiderate complaint among those who contribute more largely perhaps than any other class in the community towards giving the tone to public feeling. He hardly need say that he meant the editors of newspapers. But this thing does not depend upon the number of members—it depends upon their disposition—a disposition which is the life blood of a free country—a disposition which, so long as it confines itself within the rules of order and decorum, he should be very sorry to see restrained in any other manner whatever. Freedom of speech, freedom of debate, he looked upon as a privilege whose free exercise is essential, not only to the triumph of principle, but to the preservation of every other right, in which, as citizens of one common Republic, we all participate. Besides, while we are engaged in what newsmongers would call a tedious and unprofitable debate, if we are doing no good, we have the negative merit at least of doing no harm. In this point of view, he thought that the nation often profited by the number of speeches, and not by the number only, but also by their length—so far as they tend to the elucidation of cardinal principles, and to the eliciting of truth—so far as they set bounds to the catalogue of hasty, unnecessary 3d of March acts of Congress, of which a gentleman from

H. OF R.

Apportionment Bill.

JANUARY, 1822.

Pennsylvania (Mr. Ton) spoke a few days since—so far ought this disposition for speech-making, (instead of being repressed,) to be encouraged. While on the subject of long speeches, however, he would say, that if it were a fault, it was one which he had no intention to commit himself, at least on this occasion.

There was a consideration urged by another of his honorable colleagues, (Mr. Wood,) with some emphasis, which he would take the liberty of noticing, not on account of the objection itself, for to that he had already spoken, but on account of the quarter from whence the objection emanated, the reason assigned, and the rather imposing manner in which it was illustrated by reference to the legislative experience of the State, which he and Mr. R. had the honor to represent in common with many others. He alluded to that part of his remarks wherein he took occasion to say, that a ratio less than 45,000 would necessarily make this House too numerous for the fit despatch of public business. Why, this thing of despatch (he meant hurrying despatch) in legislation, was the very thing which, above all others, he most deprecated, and against which he would guard most scrupulously.

When his worthy colleague drew upon the treasures of his political experience, it was with unaffected diffidence that he (Mr. R.) ventured against him a difference of opinion, but when the example of New York was brought upon the tapis, he must be permitted to say, that the whole of his observation upon the late events of that State, during the ten or twelve years that he had taken an immediate interest in her concerns as one of its citizens, had uniformly tended to produce a conviction that the most crying evil in her legislation was, not in the number of her law makers, but in the number of her laws—unlooked for, ill drawn, and sometimes worse conceived acts, some two and three hundred annually swelling her statute-book to, if he might use the expression, a *fearful* size. While on this topic, might he be allowed to add, that he hailed with satisfaction a new and proud era in the political history of that State; the adoption of her new constitution, by a triumphant majority of freemen just emerging from thralldom; that he anticipated a quietus to faction, the restoration of harmony, and a thorough reform of all the abuses hitherto complained of, from causes infinitely more momentous and more radical in their operations, than the mistake of limiting the number of her Representatives in Senate and Assembly by a Constitutional provision.

But as the example of New York has been instanced, he would, for a moment, by way of set-off, invite the attention of the House to the experience of another respectable State—Massachusetts; and there were at least thirteen gentlemen in the House, who would unite with him in attaching some consequence to the lessons taught by her long experience. Without detaining the House to speak of her Legislature, which, to common intent, is almost countless, he would

barely advert to her late State convention—her Council of Five Hundred.

That convention, he had learned from gentlemen, possessed of the ability and means to judge unerringly, was a body of sages—was composed of her wisest and most venerable statesmen and veteran politicians. They advanced to their important task of constitution-making with a steady but rapid step. What was the consequence? Why, when the sovereign people came to view and pronounce on their work, they condemned a good part of it as being “unfit for the builder’s use;” they declared that it had not the proper marks of the craft upon it; they decided that it had been finished with too much precipitancy; that there had been too much despatch in their labors; they, in fact, said, that even “in a multitude there was” not perfect “safety.” After all, however, there was so palpable a contrast between the subject-matters of national and State legislation, that it might be well questioned whether any axioms strictly applicable to the one can correctly be applied to the other.

Before he resumed his seat he asked permission to say, that, in forming his conclusions on this subject, he was unconscious of any thing like a personal, a local, or a sectional bias. They had been arrived at after a deliberate view of the question as a national one, without any particular reference to the table of calculations, except to ascertain the aggregate population of the Union, and the probable situation in which the smaller States would be left. He believed, however, that, fix the ratio as you might, New York would still have, in common with the other States, a respectable fraction or excess of population not represented at all, or, to speak more properly, not fully represented. He believed, also, that it would be found that a ratio of forty thousand will leave an aggregate fraction smaller than any higher ratio, unless, indeed, the House was prepared to say that they will fix it at fifty-five thousand. This consideration, he conceived, was not altogether an unimportant one.

He had thought proper to disclaim the consciousness of any individual bias on this question, because he had understood that its settlement was urged upon the last Congress, at its last session, on the ground that, as the several marshals had not then made their returns, the ignorance of members would enable them to act more wisely, because they would act in the dark—in other words, without any distinct reference to their own respective, peculiar situations. In any event, the district which he had the honor to represent, in part, containing a population of upwards of one hundred and twenty thousand, must be materially dismembered; and, as regarded New York, she would, he trusted, nay, he had no doubt, on this question, as on all others, especially so far as the small States are to be affected by its decision, show herself not only republican by profession, but magnanimous in practice.

Mr. WILLIAMSON, of Maine, said he had only a few words to say on this subject. It had been observed that this House was the representative

JANUARY, 1822.

Apportionment Bill.

H. OF R.

body of a democratic Government, and that it ought therefore to be numerous. He had not been able to see the force of this reasoning, and therefore could not, perhaps, fairly estimate its weight. He thought its democratic character was not derived from its numbers, but from the nature of the powers that were confided to it by the people. It had been also said, that it should bear a due proportion to the numbers of the Senate. But the scale of proportion was the very question in dispute.

Mr. W. then adverted to the various numbers that had respectively, and from time to time, comprised the two branches of the Legislature. He thought the example that was given by the framers of the Constitution was a good one. The duties devolving on Congress since that time, were not more arduous, nor the trusts more important. Mr. W. replied to the suggestion of the gentleman from Rhode Island, (Mr. DUFEE,) on a former day, that ours was the least numerous legislative body in the world, and said, that admitting the fact to be true, yet, when taken in connexion with other circumstances, it was not a matter of surprise. Although the British House of Commons had more than 650 members, and the French Legislature 244, yet this furnished no safe analogy for our Government. Ours was a confederated Republic, and the State sovereignties, by their respective Legislatures, enacted all the local and municipal laws that constituted the great bulk of legislation. In the twenty-four States there were probably 5,000 legislators, and all these were in effect auxiliary to the National Legislature. With respect to its operation on small States, he would admit that it seemed to operate hardly on Rhode Island. But in past years, with a population of about 80,000, they had had two Representatives, whereas there were many districts in the United States, (of which his was one,) that with a population of 50,000, elected but one Representative. He thought the balance of representation was fully made up to the small States, by their influence in the Senate; and the greater the ratio, the more favorable it would be for them (proportionally) in the Electoral College. In reference to the subject of Executive influence, he would only say it was very clear that the greater the number of Representatives, the lesser would be the degree of personal responsibility; and with regard to the expense, if all other things were equal, it was entitled to sufficient consideration to turn the scale in favor of a small number.

Mr. CHAMBERS opposed the ratio as reported, and was in favor of the number of forty thousand. That number would leave many of the States with the number they now have. The reported ratio would cut off Rhode Island from half its representation, and leave it with a very large fraction. She was a star in the old constellation, and he could not consent to strip her of her influence. The number of forty thousand would operate unfavorably only on Delaware; he feared her case was irretrievable. Her small territory, &c., would not enable her to keep pace with her sisters—and he thought, in every view of this subject, the number

of forty thousand was less objectionable than any other that could be named

Mr. FARRELY was opposed to the number reported, on a different principle. He was in favor of a numerous representation in that branch, which was emphatically termed the house of the people. By increasing the number of representatives, there was more of public sentiment and public feeling introduced in that body. The representative system was adopted only because it was inconvenient for the people to meet in a primary assembly—but the more we lessen the number of representatives, the further we depart from republican principle. There was another reason of weight against confining the representation to a large ratio. The fewer the number of representatives, the less would their characters be known to their constituents, and although the range of selection would be greater, yet, in his opinion, the benefits of the former consideration, by far outweighed the latter; and he was not willing to yield to the force of the argument drawn from inconvenience, especially when it was opposed to principle.

Mr. SANDERS, of North Carolina, said, it was with some reluctance he was induced to ask the attention of the House to the subject then under consideration, as he was not free from those fears to which a first effort to address the House seemed so well calculated to beat an alarm. As the object of those who opposed a concurrence with the Committee of the Whole, was, as he presumed, to lessen the ratio and increase the number of members, and as he had voted for a much higher ratio than even that proposed, he was unwilling to give a silent vote. The power, said Mr. S., of apportioning the representation among the several States had been vested in Congress, and this, as well as all other discretionary powers, should be exercised soundly—to do so it was necessary to act on principle, and not upon any arithmetical calculation, with an eye to our own district or State, but to its operation on the whole Union. The Committee of the Whole have recommended forty-two thousand, which will give to the nation two hundred representatives, and he would ask if this number was not amply sufficient for all the beneficial purposes of correct legislation? Is it believed, said Mr. S., that the tardy progress of business in the House is owing to a want of an additional number of members? Would a greater increase than that proposed add either to the capacity or disposition of the House to the discharge of the public business? Mr. S. thought that it would not, and he could not, therefore, see any just grounds for such increase. The House had been told, however, that the increase ought to take place, as it would have the tendency of preserving to the old and small States the power they then possessed. He knew that power was as dear to States as to individuals, and that those who once possessed it, would, on all occasions, be very unwilling to yield it. But have these States any just claims to the retention of this power? Is it consistent with the free principles of our Constitution that they should retain it? Is not the Constitution, in its representative system, as in every thing else, based upon

H. OF R.

Apportionment Bill.

JANUARY, 1822.

general principles? And if the small or old States are so unfortunate, in point of their population, as not to come within the favorable operation of this system, should it be made to conform to their convenience or advantage? He, Mr. S. thought not; and, though he came from an old State, he neither asked nor desired any thing in its favor, to which its wealth and population did not justly entitle it. Was it due, asked Mr. S., to the thirteen old States, because they were the first to proclaim us free and independent as a nation? Or was it not to the three millions of men who established our freedom, to whom we were indebted? The obligation attached to the persons, and not to the States. Where then were they now to be found? Most of them, Mr. S. said, had descended to their clay cold tenements, and of the few that remained, he was persuaded as many, if not more, would be found in the new as in the old States. On the restoration of peace, many of them removed to the West, to enjoy, in the forest, the lands which had been granted them as a small compensation for their valor. And there would now be found their children and their offspring. On this score, then, Mr. S. thought nothing was due to the old States. Have the small States then, inquired Mr. S., any just claims to a favorable ratio? Does not the Constitution already secure to them two Senators and one Representative, let their population be what it might? And, if the large States had not complained of this compromise, of which he, Mr. S., was not to be understood as complaining, he thought with this advantage and security they ought to be satisfied, or at least should not complain at any operation of a general system.

We have been told, said Mr. S., that the increase now proposed to be made to the ratio, was much greater than what had hitherto been made; and the proportion of members to our present population was much less than it was soon after our Government was first put in operation. But it should be recollected, in the first place, that our forefathers did not revolt so much with a view to the establishment of their freedom, as they did against the abusive exercise of power. That in the formation of a government for themselves, they were jealous of delegating this power to others, hence they retained as much as practicable in their own hands, believing, as they did, that, by having a numerous representation, they would have a more direct control over the acts of their Legislature. But experience has shown, and the people themselves had become satisfied that their control was not to be found in this way. They possessed this control, but it was brought to bear in a different way than in the numbers of their representatives. It was true, said Mr. S., that the Constitution had fixed the minimum, though it had not the maximum, of our representation; yet he thought it was necessary to stop somewhere, and that we had, in his view, attained this point. It should be recollected, Mr. S. said, that during this session a proposition had been made to limit their body, and though gentlemen might be disposed to treat this as rather an officious act, on the part of the honorable mover, yet he, Mr. S., conceived the princi-

ple to be correct, and he cared not from whence the proposition came, it would have his support. And he, Mr. S., hesitated not in believing that, if we now went beyond the proposed increase, the people would, through their respective Legislatures, fix some point, beyond which we should not hereafter go; and he thought it best to fall short of this probable limit than to exceed it. But if we were, continued Mr. S., now to increase our representation in the same proportion to our population, as heretofore, how soon would we have such a body, that it would be next to an impracticability to do any business at all. It had been said, by correct writers on the subject, that the population of every country would double itself in every 15, 20, or 25 years, provided the increase of means of subsistence was adequate to support such an increase of population; that, from the fertility of our soil, and the extent of our territory, none could doubt but the means here would always be adequate to any increase of population. If so, and you continued to increase your representation in the same proportion, Mr. S. thought, in a few more terms of ten years, we should have such a national legislature as would be totally unfit for every useful purpose.

We had been told, however, Mr. S. said, by the gentleman from Rhode Island, that we had no data to direct and govern us on this subject. It was true, said Mr. S., that we could not consult the history of the old world the present day, because the true principles of a representative government are there nowhere to be found; and, although the British House of Commons was termed a democratic body, that it was very numerous, consisting perhaps of six hundred and fifty-eight, yet every one knew that the larger proportion of that body was composed of placemen and pensioners, and that, in all great questions between the people and the ministry, the latter always prevailed. He, Mr. S., did not think, therefore, that body reflected the proper sense of the great body of the people. And he was unwilling to imitate any system in which boroughs were represented, more famed for the number of their representatives than the number of their constituents—boroughs, where the "busy hum of man" was now scarcely to be heard, but were still remarkable for their manufacture of members in Parliament. But let us inquire, said Mr. S., if there is nothing to direct and instruct us on this subject, in the history of our country—that history as it was condensed in the constitutions of our own States. We have twenty-four States in the Union; there were six who had limited their representation, in the more popular branch of their government, to a number less than one hundred; there were eight who had fixed it at one hundred; and the other ten varying between one and two hundred, except, perhaps, Virginia and Massachusetts. Now, if the States had found this limitation necessary, and these numbers as sufficient for all the purposes of their legislation, he thought that Congress might gain something from their experience. For although it might be said that, in point of territory, the Union was much greater than any one State, yet,

JANUARY, 1822.

Apportionment Bill.

H. OF R.

paradoxical as it might seem, Mr. S. thought a large representation was more necessary in a large State than in the United States. Your States are divided into townships, parishes, and counties; each, as so many corporate bodies, required particular laws for their internal police—their interest not unfrequently conflicted; hence, in their State legislatures, it was necessary that each should have a member. But in Congress there were only twenty-four States as bodies politic represented; and though the States might sometimes differ in their notions of interest, yet it but seldom happened that there was found to exist such a difference of interest in any particular State, that every member, let him come from whatever section of the State he might, would not be found competent to its true representation.

Mr. S. was as unwilling as any one to remove the representative too far from the body of the people. He believed mutual confidence between the representative and constituent constituted the brightest gem in the diadem of a representative government; that this confidence would only exist where there was felt a proper responsibility; yet he thought the proposed number not too great for this effect. In several of the old States, and in North Carolina particularly, Mr. S. said, the number would remain the same as it then was; and he had not found any difficulty in knowing the wants and the wishes of the people. And, whilst he admitted that the laws of all well regulated Governments should be made to conform to these wants and these wishes, so far as might not be inconsistent with the general weal, yet, unless they wished to make the representatives on that floor as so many ambassadors from every petty district, charged with the local feelings and prejudices of each, they should not divide the States into too small districts. It had been said, that where the population was dense the districts would not be too large, but where it was sparse and scattered over a great extent of territory, then they would be too large. Now, Mr. S. said, he would remind those on the opposite side of the question, that when the population was thus extended over a great extent of territory, the pursuits of its inhabitants were generally agricultural; that they had but few wants to ask, but few wishes to gratify—all they asked was that you would so regulate your intercourse with foreign nations as to keep them free from the horrors of war, and that you would so manage your own affairs as to keep them free from the no less horrors of internal taxes. These were views and wants easily made known and understood. Mr. S. had heard much upon this as upon other occasions, of Executive influence, and while he was willing to admit the extent of the patronage of the Executive, he was disposed to believe many of the fears on that score to be chimerical. By increasing the number of members however, although it might lessen the visibility of the evil, it would not eradicate it. Those who sought a seat on that floor for the purpose of paving their way to Executive favor, would but seldom find favor at the hands of the people. And though he could not speak on this subject with the same confidence

as those of longer experience, yet he would say, coming, as he did, from the bosom of the people, that more reliance was to be placed in their virtue, good sense, and intelligence, than would be found in any shield which an additional number on this floor would throw around them. Mr. S. concluded by saying, he had said nothing as to the expense of the increase, or as to the accommodation of members in the Hall, for, though he considered that those things should enter into their calculation, yet, if it was for the benefit of the nation that a large increase should take place, he was willing to admit that these were not paramount objections; yet, as he did not think a larger increase than two hundred necessary, he hoped it would not be exceeded.

Mr. RANDOLPH, of Virginia, next rose. He said it required a very great share of legislative intrepidity for any man, and more than he professed to possess, to attempt to debate any question in regard to which there is a moral assurance that the majority is pretty decidedly against you. The very few words, therefore, which he had to say on this unpromising subject, would be on a question wherein he trusted, from present appearances, and some other indications too, that he should be in a majority; and that was, the question of concurring with the Committee of the whole House in their amendment of this bill. He must be permitted to state, he said, altogether unimportant as the fact was, that, although he had been one of the committee to bring in this bill, he had not yet tried any ratio either in the State, one of whose representatives he was, nor in the district which he represented, nor in any one county of which that district was composed. It would indeed be extremely disingenuous in him not to say, that, in glancing his eye over the table of calculations, he had perceived that one number—he believed it was 38,000—would eminently conduce to the advantage of the State of Virginia, and that some of the numbers, not present to his memory, would be extremely injurious to her relative weight in this body, and in the Presidential election, and consequently to her influence in the Government of the United States. But, said he, whilst I make this declaration—and I know it to be as unimportant as the individual who addresses you—I must be permitted to say I cannot enter at all into the reasoning, if indeed it be reasoning, which goes to show that the number of two hundred representatives, or this ratio of forty-two or of forty thousand, or what not, is to serve some great political purpose, whilst one member more or less, or one thousand in the ratio more or less, would produce a calamitous effect. To such prescience as could discover important effects from such causes, he laid no claim. But this he would say, that it was made an objection to the Constitution by some of the greatest men whom this country ever produced, and perhaps as great as it ever would produce—it was in itself a vital objection to George Mason's putting his hand to that Constitution, that the representation in Congress was limited not to exceed one member for every thirty thousand and souls; whilst, on the other hand, a most un-

bounded discretion was given as to the increase of the ratio. It was an objection to this Constitution, said Mr. R., on the part of some of the wisest men whom this country ever produced; it was an objection on the part of Patrick Henry, whose doubts—I need not ask you, Mr. Speaker, to recur to them; I fear you have been too familiar with them in the shape of verified prediction—whose doubts experience has proved to have been prophetic.

On a question of this sort, said Mr. R., shall we be told of the expense of compensating a few additional numbers of this body? He knew, he said, that we had, in a civil point of view, perhaps the most expensive Government under the sun. We have, taking one gentleman's language, an army of legislators. There was a time, Mr. R. said—and he wished he might live to see it again—when the legislators of the country outnumbered the rank and file of the army, and the officers to boot—I wish, said he, I may see it again. Did any man ever hear of a country ruined by the expense of its legislators? Yes, as the sheep are ruined by so much as is devoted to the nourishment of the dogs. As to the civil list—to the pay of a host of legislators. Is it their pay that has run up the national debt? Is it their pay that produces defalcations of the revenue? Did mortal man ever hear of a country that was ruined by the expenses of its civil list, and more especially of its legislative establishment? Mr. R. said he was no believer in ancient or modern magic; he gave no credit to Sir Kenelm Digby's sympathetic powder, or to Plato's visions of the importance of the number ten. To go by any rule of that sort, some might prefer an odd number—three, because it was the number of the Graces, or nine, which was that of the Muses—and those miserable dupes who adventure in lotteries generally endeavor to hit on an odd number, &c. He could not conceive how it happened that in a former Congress, they had been so blind to the magic of numbers as to overlook the number of one hundred, notwithstanding which one of that body signed himself Centum-Vir, as one of the number of whom that council was composed. After all the wire-drawn speculations on this subject, however, we must, said Mr. R. come down to suitability, if I may use the word—to the fitness of things, as the great philosopher Square would have said. We must take a number which is convenient for business, and at the same time sufficiently great to represent the interests of this great empire—yes, this empire, he was obliged to say, for the term republic had gone out of fashion. Mr. R. here said he would warn, not this House—they stood in no need of it—but the good, easy, susceptible people of this country, against the empiricism in politics—against the delusion, that, because a government is representative, equally representative, if you will, it must, therefore, be free. Government, to be safe and to be free, must consist of representatives having a common interest and a common feeling with the represented. But, as he believed he would be better understood by an example, he said he would put it. Mr. R. here put a case of the

United States entering into a joint partnership of a political kind with the Emperor of China, and that they were to allow to us a representative for every thirty thousand souls, claiming for themselves a representative only for every one hundred thousand souls. Would a Legislature so constituted be fit to govern us? Certainly not, if the Chinese yet had, as in such a case they would have, a majority of the whole number of members, &c. When I hear, said Mr. R., of settlements at the Council Bluffs, and of bills for taking possession of the mouth of Columbia river, I turn—not a deaf ear, but an ear of a different sort, to the sad vaticinations of what is to happen in the length of time—believing, as I do, that no government extending from the Atlantic to the Pacific can be fit to govern me or those whom I represent. There is death in the pot, compound it how you will. No such government can exist, because it must want the common feeling and common interest with the governed, which is indispensable to its existence.

Whilst the honorable gentleman from North Carolina was entertaining the House, and Mr. R. confessed very much to his satisfaction, he had made a few cursory notes, to which, with the leave of the House, he would recur.

In answer to the argument, that the first House of Representatives under this Congress consisted of but sixty-five members—Mr. R. said he well remembered that House; he saw it often—that very fact was, he said, to him a serious objection to too small a representation on this floor. The truth is, said he, we came out of the old constitution, where we were in a chrysalis state, under unhappy auspices. The members of the body that framed that Constitution were second in respectability to none. But they had been so long without power—they had so long seen the evils of a Government without power, that it begot in them a general disposition to have King Stork substituted for King Log. They organized a Congress to consist of a small number of members. And what was the consequence? Every one in the slightest degree conversant with the subject must know that, on the first step in any Government depends, in a very great degree, the future character and complexion of that Government. What, he repeated, what was the consequence of the then limited number of the Representative body? Many, very many, all that could be called fundamental laws, were passed by a majority which, in the aggregate, hardly exceeded the number of the committee which was the other day appointed to bring in the bill now on the table—and thereby, said he, hangs, not a tale, but very serious ones, which it is improper to open here and now. Among the other blessings which we have received from past legislation, we should not now have been sitting in this place, if there had been a different representation. Those who administered the Government were in a hurry to go into the business of legislation before they were ready. And here, Mr. R. adverted to what had been said in allusion to the redundancy of debate. For my part, said he, I wish we could

JANUARY, 1822.

Apportionment Bill.

H. OF R.

have done nothing but talk, unless, indeed, we had gone to sleep, for many years past; and, coinciding in the sentiment which had fallen from the gentleman from New York, give me, said Mr. R., fifty speeches, I care not how dull or how stupid, rather than one law on the statute book; and, if I could once see a Congress meet and adjourn without passing any law whatever, I should hail it as one of the most acceptable of omens. I once held this opinion, said he, with a qualification in favor of appropriation laws. But, as they have been of late excepted as the only laws which the powers that be are not bound to respect, I find that we may dispense with them as well as with any others.

Mr. R. then noticed another view which had been taken of this subject, which was, that the higher numbers were favorable to the smaller States, not only as regards their relative influence here, but more especially as regards their relative influence in elections of the President—he would say nothing of the Vice President of the United States—because, he added, the first was the object to which the eye of the public was generally turned, and of the minor object he had not yet heard spoken. On this argument, Mr. R. made some remarks, importing that he did not allow to it much weight.

Another member had said that a particular number was the best, because it was perfectly fair as regarded Rhode Island. But, Mr. R. said, it was not equally so for the State of Delaware, nor perhaps for any other State. What an idea of fairness was this! It was like the discourse of a blind man upon colors, who said that the sound of the trumpet was red, because the trumpet sounded whenever the soldiers passed along, and he had heard that they were clothed in red. Fairness! What fairness was there in this?

But it seemed, according to the argument of another gentleman, unless we have large and populous districts, we should not have a body sufficiently select—there would not be sufficient room to select from each district a potent, grave, and reverend seignior to take his seat on this floor. This, Mr. R. said, was something like being told, that without high salaries you can get nobody to take offices; yet, said he, make the salaries what you will—I will say no more.

It seemed, too, that any analogy taken from the British House of Commons—which, Mr. R. said, he had not heard urged in the only manner in which it could be urged, except that the numbers were not too great to admit of the due exercise of legislative powers—was not applicable to the subject of the present discussion, because that body is composed, in a great measure, of placemen and pensioners. Mr. R. would not say that he was, on this occasion, reminded of the fable of the fox and the flies; but this he would say—that the placeman, snug and warm in his place, or the pensioner secure of receiving his quarterly supply, or any one of the number who by indirection arrive at the same object, the plunder of the people, was, to his view, in everywise as fit, proper, and, if he might use the word which he

had lately heard on this floor for the first time, as *reliable* a Representative as the man who is in search after a place or pension. But, his worthy friend would tell the House that this was a description of persons whom, when once the people have ascertained their character, they withdraw their confidence from. Mr. R. said he hoped it might be so hereafter; but there was one misfortune about it, which was that the mischief is done before the people have ascertained the true character of these men, and that it is in doing this very identical mischief that their character develops itself. The people, to be sure, can shut the stable door, and lock it too, but it is after the steed is gone.

After all, Mr. R. said, he feared little impression was to be made on the terrible array of figures presented to the House, which he had not eyes or a brain to encounter by representations of this kind. One thing, however was certain, that if one hundred and eighty-seven members were not too many ten years ago, three hundred were not too many now. He did not pretend, he said, to lay down any rule by which an arithmetician, any more than a geometrician, could work this question. It depended upon things which are infinitely variable, on combinations infinitely diversified, and must be settled at last by good plain common sense, and by no flourishes of the pen or of rhetoric. The case of a State wisely governed by its Legislature, that of Connecticut for example, he argued, would be preposterously applied to this Government, representing, as it does, more than a million of square miles, and more than twenty millions of people—for such would ere long be the amount of our population, if it goes on increasing as some predict. To say that two hundred shall be the number of representatives, and then to proportion that number among the States, would, Mr. R. said, be putting the cart before the horse—making a suit of clothes for a man, and then taking his measure. The number of representatives ought to be sufficient to enable the constituent to maintain with the representative that species of relation, without which representative government was as great a cheat as transubstantiation—he was going to say—but in respect to a numerous and most respectable class, he would not—but he would say, as any in priestcraft, kingcraft, or in another craft, which, (as Great as is the Diana of the Ephesians!) he would not name. When I hear, continued Mr. R., of its being proposed, elsewhere, to limit the numbers of the representation of the people on this floor, I feel disposed to return the answer of Agesilaus, when the Spartans were asked for their arms—“Come and take them.” If you step out of your threshold in matters which do not concern you, we have got a Roland for your Oliver; we will increase your number, apportioning it somewhat more to the population and wealth of the respective members of this community. And, as the Legislatures are, as we are told, nearly all in session about this time, and the election can be readily made, we will reduce your term of service to a year. This, Mr. R. said, by way of parenthesis. He went on to say, that it appeared to be the

H. OF R.

Proceedings.

JANUARY, 1822.

opinion of some gentlemen, who seemed to think that he who made the world should have consulted them about it, that our population would go on increasing to such an extent as to exceed the limits of the theory of our representative government. Mr. R. said he remembered a case in which it had been seriously proposed, and by a learned man too, that inasmuch as one of his brethren was increasing his property in a certain ratio, in the course of time it would amount, by progressive increase, to the value of the whole world, and this man would be the master of the world. These calculations, he said would serve as charades, conundrums, and such matters, calculated to amuse the respectable class, much interested in this matter of population, of old maids and old bachelors, of which Mr. R. said he was himself a most unfortunate member. To this objection, that the number of the House would become too great—to this bugbear, it was sufficient to reply, that when the case occurs it can be provided for; we will not, said he, take the physic before we are sick, remembering the old Italian epitaph, "I was well; I would be better, and here I am."

Mr. B. concluded his observations by saying that he would not have risen, but from the apparent inconsistency of the vote he was about to give, with that which he gave ten years ago on a like occasion. At that time, he said, there was no prospect of any such over-reaching and aggrandizing spirit on the part of the General Government, which as wise, and as good, and as disinterested men as any this country ever produced, now say they apprehend, and Mr. R. said, he thought, not without reason—he might be one of the alarmists. On the occasion now referred to, he said he had voted, as well as he recollected, for a ratio of thirty-seven thousand, and was willing now to go so far as to make the future representation bear the same proportion to the present, as the present bears to the past, &c. He would add one other remark: he would get rid of no difficulty which his past political life might put upon them, by subterfuge or evasion. He did not call on those who have not sinned at all to throw the first stone; he called upon those who had passed through three and twenty years of political life with no greater inconsistency, to show it—and, sir, said he, pelt on! I can endure.

The question on concurring with the Committee of the Whole in the amendment, was at length decided—yeas 83, nays 88, as follows:

YEAS—Messrs. Abbot, Alexander, Allen of Tennessee, Archer, Barber of Ohio, Bassett, Bateman, Blackledge, Blair, Breckenridge, Burton, Campbell of New York, Campbell of Ohio, Cannon, Cassedy, Condict, Conner, Cook, Crudup, Cushman, Cuthbert, Edwards of North Carolina, Floyd, Gebhard, Gilmer, Gist, Hall, Hardin, Hawks, Herrick, Hill, Hooks, Jackson, F. Johnson, J. T. Johnson, Jones of Tennessee, Keyes, Kirkland, Leftwich, Long, Lowndes, McCarty, McCoy, McDuffie, McNeill, Matlack, Mercer, Metcalfe, Montgomery, Moore of Virginia, Moore of Alabama, Morgan, Nelson of Virginia, New, Newton, Overstreet, Phillips, Poinsett, Reid of Georgia, Rhea, Rich, Sanders, Sawyer, Scott, Arthur Smith, W. Smith, Alex-

ander Smyth, J. S. Smith, Stevenson, Swan, Swearingen, Tatnall, Thompson, Trimble, Tucker of South Carolina, Van Wyck, Walker, Walworth, Williams of North Carolina, Williams of Virginia, Williamson, Wilson, and Woodson.

NAYS—Messrs. Allen of Massachusetts, Baldwin, Ball, Barber of Connecticut, Barstow, Baylies, Bigelow, Borland, Brown, Buchanan, Burrows, Butler, Cambreleng, Causden, Chambers, Conkling, Crafts, Dane, Darlington, Denison, Dickinson, Durfee, Dwight, Eddy, Edwards of Connecticut, Eustis, Farrelly, Findlay, Fuller, Garnett, Gorham, Gross, Harvey, Hemphill, Hobart, Holcombe, Hubbard, J. S. Johnston, Kent, Lathrop, Lincoln, Litchfield, Little, McSherry, Malary, Matson, Mattocks, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Murray, Neale, Nelson of Massachusetts, Nelson of Maryland, Patterson of New York, Patterson of Pennsylvania, Pierson, Plumer of New Hampshire, Plumer of Pennsylvania, Randolph, Rankin, Reed of Massachusetts, Rochester, Rogers, Ross, Ruggles, Russ, Russell, Sergeant, Sloan, S. Smith, Sterling of Connecticut, Stewart, Stoddard, Taylor, Tod, Tracy, Tucker of Virginia, Upham, Vance, Warfield, Whipple, White, Whitman, Wood, Woodcock, Worman, and Wright.

Mr. TAYLOR then moved so to amend the said bill as that the ratio aforesaid be fixed at forty-seven thousand persons. And the question thereon being stated, the House adjourned.

TUESDAY, January 29.

Mr. COLDEN presented a memorial and petition of the trustees of the Reformed Protestant Dutch Church, of the township of New Utrecht, in King's county, State of New York, praying for the aid of Congress to enable them to build a church and steeple a short distance from the beach or shore at New Utrecht, on Long Island, which, though used as a place for divine worship, shall, at the same time, serve as a conspicuous land mark to vessels navigating the bay and harbor of New York; which was referred to the Committee of Commerce.

Mr. MERCER presented memorials of sundry inhabitants of the counties of Fairfax and Loudoun, in the State of Virginia, soliciting an increase of the naval force employed on the coast of Africa for the suppression of the slave trade, and that the Government of the United States will concert such measures with the maritime nations of Europe as will effectually remedy any defects in the existing laws and regulations established among them, for the utter extermination of a trade which has proved, for several centuries, the curse and desolation of Africa, and a stain upon the character of the civilized world; which were referred to the Committee on the Suppression of the African Slave Trade.

Mr. SERGEANT, from the Committee on the Judiciary, to which the subject was referred, reported a bill to alter the times of holding courts in the western district of Virginia, and for other purposes; which was read twice, and referred to a Committee of the Whole.

Mr. MERCER presented a petition and remonstrance of sundry inhabitants of the town and

JANUARY, 1822.

General Jackson and Judge Fromentin.

H. OF R.

county of Alexandria, in the District of Columbia, against the passage of the bill now pending in this House, to extend the jurisdiction of the justices of the peace in the recovery of debts in the District of Columbia; which was committed to the Committee of the Whole to which the said bill is committed.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill making a partial appropriation for the support of the Navy of the United States, for the year 1822; which was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, reported a bill for the relief of Solomon Prevost; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. MOORE, of Alabama, the House agreed to refer certain resolutions of the Legislature of Alabama to the committee to whom was referred the petition of certain inhabitants of West Florida, praying to be annexed to the State of Alabama.

On motion of Mr. JACKSON, the Committee on the Judiciary were instructed to inquire into the expediency of requiring the clerks of courts, and designated collectors of the revenue, whose duty it is to grant deeds for land sold for the non-payment of direct taxes, to incorporate in one deed, at the option of the purchaser, all the lands purchased by him that are situate in the same county or district.

Mr. NELSON, of Virginia, submitted the following resolution, viz:

Resolved, That the President of the United States be requested to lay before this House such communications as may be in the possession of the Executive, from the agents of the United States, with the Governments south of the United States, which have declared their independence; and the communications from the agents of such Governments in the United States, with the Secretary of State, as tend to show the political condition of those Governments, and the state of the war between them and Spain, as it may be consistent with the public interest to communicate.

The resolution was ordered to lie on the table one day.

Mr. JOHNSTON, of Louisiana, submitted the following resolutions, viz:

Resolved, That the President of the United States be requested to lay before this House such information as he may possess, with regard to the piratical depredations upon our commerce in the West Indies, during the last six months; what naval force is employed now in that service; what seizures and captures have been made; what additional force can be ordered on that duty; and what other means are necessary to suppress these practices, and to give entire protection to our commerce.

Resolved. That the President of the United States be requested to lay before this House what particular acts of violence and outrage have been committed upon the persons and property of American citizens in the port of Havana; how far they are permitted or acquiesced in by the authorities of that place; have they refused the aid of the laws to restrain and punish them; and what measures have been taken by this Government in relation to this class of injury.

The resolution was ordered to lie on the table one day.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: An act concerning the lands and salt springs to be granted to the State of Missouri for the purposes of education, and for other public purposes; An act for the relief of Richard Matson; An act granting to the Governor of Louisiana, for the time being, and his successors in office, two tracts of land in the county of Point Coupee; An act to authorize the Commissioner of the General Land Office to remit the instalments due on certain lots in Shawneetown, in the State of Illinois; and an act supplementary to an act, entitled "An act to alter the terms of the district court in Alabama;" in which last mentioned bills they ask the concurrence of this House.

HEIRS OF J. CARVER.

The House then agreed to take into consideration the resolution submitted yesterday by Mr. WALWORTH, calling for information respecting the pretended titles of the heirs of Jonathan Carver, of certain lands near the falls of St. Anthony, on the Mississippi river.

Mr. W. stated that frauds were committed, and innocent purchasers drawn in by persons pretending to a title to these lands. His object was, that such information might be given through the medium of this House, as might forewarn purchasers of the falsity of the title.

Mr. COLDEN thought it improper for this House to undertake to decide upon questions of title. He would not even take a course that might prepossess public opinion one way or the other on such a question. It was a matter not within the province of Congress. He, therefore, moved to strike out the word "pretended," and to insert, after the word "claim," the words "made by," before the words "the heirs."

The amendment prevailed, and after a few remarks by Mr. TRACY, who doubted the propriety of even making an inquiry into this title more than into titles to other lands claimed by individuals, the question was taken, and the resolution adopted.

GEN. JACKSON AND JUDGE FROMENTIN.

A Message received yesterday, from the PRESIDENT OF THE UNITED STATES, was read, and is as follows:

To the House of Representatives:

In compliance with the resolution of the 2d instant, I transmit a report of the Secretary of State, with all the documents relating to the misunderstanding between General Jackson, while acting as Governor of the Floridas, and Eligius Fromentin, judge of a court therein; and also of the correspondence between the Secretary of State and the Minister Plenipotentiary of His Catholic Majesty, on certain proceedings in that Territory, in execution of the powers vested in the Governor by the Executive, under the law of the last session, for carrying into effect the late treaty between the United States and Spain. Being always desirous to communicate to Congress, or to either House, all the information in the possession of the Executive respecting

H. OF R.

Proceedings.

JANUARY, 1822.

any important interest of our Union, which may be communicated without real injury to our constituents, and which can rarely happen, except in negotiations pending with foreign Powers; and deeming it more consistent with the principles of our Government, in cases submitted to my discretion, as in the present instance, to hazard error by the freedom of the communication rather than by withholding any portion of information belonging to the subject, I have thought proper to communicate every document comprised within this call.

JAMES MONROE.

WASHINGTON, January 28, 1822.

Mr. WHITMAN moved to refer the Message, with the documents accompanying the same, to the Committee on Foreign Relations, with instructions to designate in their report such parts thereof as, in their opinion, it might be proper to publish.

Mr. BALDWIN thought the part which related to any controversy between General Jackson and Judge Fromentin should be referred to the Committee on the Judiciary, and the residue only to the Committee on Foreign Relations.

Mr. NELSON, of Maryland, moved that the communication be laid on the table.

Mr. TRIMBLE thought the gentleman from Maine, (Mr. WHITMAN,) who had moved the subject, ought not now to shrink from the labor of investigating it, and place it as a load upon the shoulders of the committees of the House.

Mr. WRIGHT expressed his sentiments in favor of the original resolution; when

Mr. NELSON withdrew the motion to lay the communication on the table; and,

Mr. WHITMAN, in pursuance of the suggestion of the gentleman from Kentucky, (Mr. TRIMBLE,) moved that the subject be referred to a select committee, with the same instructions that had been proposed in relation to the Committee of Foreign Affairs.

Mr. F. JONES was willing to refer it to that committee, but wished all the documents to be printed.

Mr. MOORE, of Alabama, renewed the motion of Mr. NELSON, that the communication lie on the table.

This motion was supported by the mover, and by Messrs. WARFIELD, SAWYER, WALWORTH, F. WALKER, RHEA, LOWNDES, WOOD, and SERGEANT; and opposed by Messrs. TRIMBLE, ARCHER, REID, WRIGHT, WHITMAN, DWIGHT, FLOYD, CANNON, and BUCHANAN.

Mr. WRIGHT wished to refer it to the Committee on Foreign Affairs, and Mr. BUCHANAN to the Committee on the Judiciary. Messrs. WARFIELD and SERGEANT thought, if one part of the communication was referred to the Committee on the Judiciary, because Judge Fromentin was concerned in it, the correspondent part of it should be referred to the Committee on Military Affairs, because it related to General Jackson; so between both committees, the one laying hold of the Judge, and the other of the General, they might perhaps be kept apart.

Mr. WOOD was in favor of referring the subject to the Committee of the Whole on the state of the

Union; but the question was at length taken, and the motion prevailed to lay the whole on the table.

Mr. TUCKER, of Virginia, then moved that the communication and documents be printed; which, after remarks thereon by the mover, and Messrs. CANNON, F. JONES, MALLARY, and ALLEN, of Tennessee, was carried, as to each branch of the documents communicated.

WEDNESDAY, January 30.

Mr. GORHAM presented a petition of Joseph N. Howe, of Boston, in the State of Massachusetts, stating that, during the late war with Great Britain, he contracted to furnish certain articles for the use of the Navy; that, after the issue of Treasury notes, he notified the agent of the United States that he should abandon his contract if it was contemplated to make payment in said notes; but that, at the earnest solicitations of said agent, and upon the promise that any depreciation should be made good to him, he fulfilled the said contract, and received the said notes in payment; upon which he has sustained great loss, and praying that the same may be made good to him; which petition was referred to the Committee on Naval Affairs.

Mr. PATTERSON, of New York, presented a petition of Archibald Jackson, of that State, setting forth that, during the late war with Great Britain, a negro man belonging to him enlisted in the Army of the United States without his knowledge or consent, and died while in the service; and that he has not received either the pay or bounty in land to which he is entitled for the services of said slave, and praying that the same may be granted to him; which petition was referred to the Committee on Military Affairs.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of John Pellet, accompanied by a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill for the relief of Jonathan N. Bailey; which was read twice, and committed to the Committee of the Whole.

The resolution offered yesterday by Mr. NELSON, of Virginia, calling for information of any correspondence with, or information respecting, the South American Governments, in the possession of the Executive, was read and adopted.

The following bills were received from the Senate, viz:

Supplementary to an act "to alter the terms of the District Court in Alabama;" to authorize the Commissioner of the General Land Office to remit the instalments due on certain lots in Shawneetown, in the State of Illinois; authorizing the transfer of certain certificates of funded debt of the United States; granting to the Governor of the State of Louisiana for the time being, and his successors in office, two tracts of land in the county of Point Coupee; for the relief of Richard Matson; concerning the lands and salt springs to be granted to the State of Missouri, for the purposes of education, and for other public uses.

JANUARY, 1822.

Land Offices.

H. OF R.

These bills were all twice read, the first being laid on the table, and the others referred to the proper standing committees.

The SPEAKER laid before the House the following communications from the Secretary of the Treasury, viz:

A report, made in obedience to a resolution submitted by Mr. STERLING, of New York, in relation to the compensation of the Collector of the Customs for the district of Cape Vincent; which was read, and ordered to lie on the table.

A letter accompanied with statements showing the quantity of wool imported into the United States in the years 1817, 1818, 1819, 1820, and 1821, with the aggregate value thereof; showing also, the quantity exported from the United States, during the same years, and the places to which exported, rendered in obedience to a resolution of this House; which were read, and ordered to lie on the table.

A letter stating that the Treasury Department is not possessed of the information required by this House by a resolution of the 23d instant, respecting the funds set apart by an act of the State of Maryland, of the 26th December, 1791, for improving the port of Baltimore; and by an act of the State of Georgia, of the 10th of February, 1787, for clearing obstructions in the river Savannah; which letter was read, and ordered to lie on the table.

A report upon the petition of James Morrison, respecting advances to Colonel Buford, and interest upon loans made to the Government, referred to him at the last session of Congress; which was read, and ordered to lie on the table.

LAND OFFICES.

A report, in obedience to the resolution of the 4th instant, adopted on the motion of Mr. COOK, respecting the manner in which the several Land Offices have been examined, by whom examined, the moneys paid for such examinations, &c.; which was read, and ordered to lie on the table. The report is as follows:

TREASURY DEPARTMENT, *Jan* 28, 1822.

SIR: In obedience to a resolution of the House of Representatives of the 4th instant, directing the Secretary of the Treasury to report to the House, "the manner in which the several Land Offices of the United States were examined prior to the first day of January, 1818; the names and places of residence of the persons by whom such examinations were made, the respective compensation allowed to each individual so employed, and the whole expense thereof to the United States; and, also, that he report the manner in which the same duty has been performed since the said first of January, 1818, together with the names, professions, stations, and place of residence, of the persons who have been appointed to make such examinations; what offices each was appointed to examine—the reports made by each—the accounts presented for their respective service, the amount of money allowed to, or drawn, or retained by each of them; whether any of them have during the said period been allowed, or received, any other compensation from the Government; if so, how much, and for what service rendered, or duty performed; and whether

some plan may not be devised whereby the same duty may be performed with equal advantage and less expense to the Government;" I have the honor to submit the enclosed statements marked A and B, which show the amount that has been paid for examining the Land Offices during the two periods of time described in the resolution, and exhibit the names, stations, and professions of the persons, by whom such examinations were made, as far as they are known to this Department.

I have also the honor to transmit copies of the reports of the state of those offices, which have been made from the 1st of January, 1818, to the 31st day of December, 1821, as far as they have been received.

Previously to the year 1816, the Land Offices had been examined by persons residing in the vicinity of their location. As the examiners were generally the friends and neighbors of the officers, whose books and accounts were to be examined and most commonly unacquainted with the forms in which they were required to be kept, the reports made by them furnished but little of the information which it was the object of the Department to obtain. They were therefore annually made, rather as matter of form, in compliance with the injunctions of the law, than from a conviction that the information obtained was of any intrinsic value to the public service. It may be proper also to observe, that during the whole interval of time from the establishment of those offices to the year 1816, the annual receipts from the public lands were inconsiderable, compared with what they have been since that time. The inducement to incur expense, in order to obtain the best information of which the nature of the case admitted, was not so strong, as it has been since the great augmentation which has occurred in those receipts.

Under the influence of these considerations, in the year 1816, the late Mr. Dallas, who was then Secretary of the Treasury, directed that the principal land offices in the State of Ohio, and Territories west of it, should be examined by one of the clerks of the General Land Office. The same person was permitted to examine them in 1817, upon the assurance of the Commissioner that his absence from his clerical duties would not be detrimental to the public service. For this service he received, in both years, at the rate of three dollars per day, during the time he was thus employed, in addition to his salary as clerk, which was not affected by his absence from the office.

Since that time, the offices have been examined by persons unconnected with the Department, who have been compensated for their services at the rate of six dollars a day whilst engaged in the examination, and six dollars a day for every twenty miles travel performed in the execution of this service. It has been the practice to furnish them with a letter of credit to the Receivers, who advance to them upon their bills such sums as may be necessary to defray their expenses. The great press of business which the law granting relief to the purchasers of public land has brought upon the land officers, has prevented them from making their returns, which will, when made, show the amount that has been received by the gentlemen who have examined the land offices during the year 1821. Until these returns are received, their accounts cannot be adjusted; but the compensation which will be allowed will not exceed the rates above mentioned. Owing to the delay which occurred in transmitting instructions

H. OF R.

Apportionment Bill.

JANUARY, 1822.

from the General Land Office, the gentleman who has been employed to examine the Southern offices has not yet forwarded his reports.

The gentleman who examined the land offices in the States of Ohio, Indiana, Illinois, and Missouri, in the year 1821, whilst engaged in that duty, effected a very important service to the Treasury, by obtaining collateral security for a very large amount of the public money on deposit in the Bank of Vincennes, at the time that that bank stopped payment. The expectation that he would be able to effect this service, formed a strong inducement to accept his offer to examine the land offices. For performing this service he had made no charge, and will receive no compensation. No additional compensation has been received in any case whatever.

From the experience which has been acquired on this subject, no doubt is entertained that the mode of examination which has been pursued since the year 1815, is decidedly preferable to that which had been previously pursued. When a different person is employed to examine each office, the judgment which is formed of the manner and style in which the books are kept, will depend upon the intelligence, the prejudices, or partialities, of the different examiners: but when the same person examines a number of offices, the same intelligence is exercised in each case, exempt, too, from partiality or prejudice, when the examiner is not a neighbor or connexion of the officer. The impressions produced upon the officers themselves by the mode which has been practised since 1815, prove incontestably its superiority over the other. An examination now is not a matter of form. The time the examiner is to arrive is unknown. When he does arrive the examination immediately commences, and is continued, without relaxation, until it is completed. When the examination is made by the neighbors of the officers, the time of examination depends upon the convenience of the latter, as there is nothing to induce the examiners to proceed to the examination at one time in preference to another.

It is also an object of some importance that the examiner should communicate confidentially many things that he would not be willing to incorporate in his report, and which it would even be improper to incorporate. The value of such communications will depend entirely upon the knowledge which the head of the Department has of the character of the person who makes them.

I have the honor to be, with great respect, sir, your obedient servant,

WM. H. CRAWFORD.

The Hon. the SPEAKER *House of Reps.*

This letter and the documents were ordered to lie upon the table.

SUPPRESSION OF PIRACY.

The House took up and proceeded to consider the resolution submitted yesterday, by Mr. JOHNSTON, of Louisiana, calling on the President for information relative to the piracies on our commerce in the West Indies, and the outrages upon the persons and property of American citizens in the port of Havana.

Mr. SMITH, of Maryland, said, that the Committee of Ways and Means had made an inquiry into these subjects, of the Secretary of the Navy, and had obtained information which he would offer to the House.

Mr. JOHNSTON said, that he wished the infor-

mation, with the resolution, to lay on the table, in order to give him time to examine whether the document contained the information he desired. He said, his object was merely to bring the subject before the House, that they might act promptly and effectually on the subject. He had waited for two months for some report of a committee on this subject; but, not hearing of any measures taken in relation to this subject, he considered it his duty to bring it directly before the House himself. He had no knowledge of the communication now laid on the table. He said he would examine the papers and give his resolution such direction as would insure the object he had in view.

The resolution was ordered to lie on the table.

NEW RULES OF PROCEEDING.

The House then took up the resolution of the Senate concurring with the joint committee, reporting two new rules—one of which is, that no bill shall be presented to the President for his signature on the last day of each session of Congress; the other, that no bill shall be originated in either House during the three last days of the session.

This subject produced some debate. Mr. TAYLOR, Mr. WARFIELD, Mr. EDWARDS of North Carolina, and Mr. RHEA, supported these new rules; and Mr. BALDWIN, and Mr. A. SMYTH of Virginia, opposed them upon principle.

Mr. BALDWIN, of Pennsylvania, expressed his apprehension that the remedy in this case would be worse than the evil. On the last day of the session, if it were adopted, neither House would have any thing whatever to do. That part of the proposed rules, he said, reminded him of a certain law of the State of Maryland, directing that there should be *no outside rows* to the fields of corn.

Mr. WARFIELD, of Maryland, was in favor of the new rules. But he could not see the force of the allusion which had been made to the law of the State of Maryland. Perhaps, he said, there was such a law in force in that State some years ago, but it was altogether of a partial nature. It applied only to that part of the State which was contiguous to the State of Pennsylvania; it was thought well, it appeared, to have no *out-rows* in that quarter.

Mr. A. SMYTH, of Virginia, moved to amend the resolve, so as to qualify the restriction proposed, limiting it to bills "of a public or general nature."

This motion was negatived, and the rules were agreed to as reported.

APPORTIONMENT OF REPRESENTATION.

The House then resumed the consideration of the unfinished business of yesterday—the Apportionment bill.

Mr. TAYLOR modified his motion, made on Monday of this week, so as to substitute the word *five* in lieu of the word *seven*, after the word *forty*, so as to make the ratio of representation *forty-five thousand*; and on that question he called for the yeas and nays, which were thereupon ordered.

Mr. CONKLING, of New York, said it was with unfeigned reluctance that he obtruded himself now,

JANUARY, 1822.

Apportionment Bill.

H. OF R.

for the first time, upon the attention of the House. But having bestowed some reflection upon the subject under consideration; having fixed upon certain principles in regard to it, which appeared to him correct; and having deduced from those principles certain conclusions which seemed to him legitimate,—he hoped he should be pardoned for attempting a brief exposition of his views. And if he did not in any degree enlighten the House, he would at least engage to occupy but very little of its time. This he conceived to be a very important question. The ratio now to be established must of necessity continue to be the rule of apportionment for at least ten years to come. But its effect would not cease with the expiration of that period: for this being a subject peculiarly liable to be affected by the force of precedent, the decision now to be made would probably have a material influence upon future apportionments. And however difficult it might be to reason with precision upon the question; however impossible it might be to prove that any given number is preferable to any other number not widely differing from it; all would agree that upon the number of this House would in all human probability depend, in no inconsiderable degree, the character and issue of its deliberations.

With regard to what constitutes the true point of inquiry, there could be no diversity of opinion. We are, without any regard to personal, or local, or sectional considerations, to endeavor to fix upon such a ratio as will insure the best possible representation of the whole American people. This object (Mr. C. contended) was more likely to be attained by adopting a high than a low ratio. In the first place, it would lead to the choice of better men—men of more talent, more intelligence, and more integrity. By extending the field of selection—by increasing the number from which the choice is to be made, you augment, upon the principles of ordinary calculation, the chance of making a judicious selection. It may indeed be said that, by limiting the districts, no one will be excluded; that if, for example, a given large district should be subdivided, the individual who would have been selected to represent the whole district, had it remained entire, falling, as he necessarily would, within one or the other of the subdivisions, would nevertheless be chosen. Sir, said Mr. C., I am sorry that my observation and experience do not leave me at liberty to concur in this conclusion. But they have taught me that, in proportion as you narrow the circle around a distinguished individual, you diminish the chance of his being selected for official station. Distinguished men are naturally the objects of envy, jealousy, and malignity; and if you would prevent the operation of these dishonorable passions, to the exclusion of men of elevated character from seats in this House, you must extend the limits of your election districts till they shall embrace sufficient of intelligence, of liberality, and of patriotism, to counteract their influence. But, sir, by multiplying the number of Representatives, another effect will be produced calculated to degrade their individual character.

It will lower the standard of qualification in public estimation, make every man think himself fit for a seat here, and induce him to compete for it. And those who are to choose, by becoming familiarized with the idea that a single Representative bears but a very small proportion to the whole body, will become careless in their selection. But there is yet another consideration, said Mr. C., which I deem of still higher importance. By thus depressing the standard of qualification, you diminish the honor of the station, and thus weaken, if not destroy, the most powerful, as well as the noblest, incentive which can prompt an honorable man to covet a seat in this House. And in taking away this incentive, what motives do you leave? I know of none but avarice and ambition. And what description of men will come here, under the influence of these passions? Who will avarice send here? Men of course whose talents, and acquirements, and occupations, are such as to render it profitable for them to do so; for, reduce the compensation as low as you please—fix it, if you choose, at five dollars a day, and there will still be men enough who will think they can make money by coming here. And who will be impelled to seek a seat in this House by ambition? And in speaking of ambition, Mr. C. said, he would not be understood to mean that elevated passion which had been somewhere denominated “but a spark too much of heavenly fire,” *virtutum propius virtuti*; but that base passion which, indeed, was little else than another name for selfishness. There could be no difficulty, then, in answering the question. It will be those who would come, not with a view to the faithful discharge of the duties of the station, but to render it subservient to their own preferment. But are such men fit for legislators? Is it to such hands that it would be wise or safe to commit the destinies of the Republic.

But, said Mr. C., if an high ratio will insure the choice of fitter Representatives individually, so also will it conduce to a more faithful and efficient discharge of their duty when assembled. If there be any truth which is taught by the experience of every day—any position upon which all men are agreed, it is this: that official responsibility is felt in proportion as it is concentrated, and that by dividing, you inevitably weaken it. I will not, therefore, said Mr. C., dwell upon this point; but content myself with appealing to every member of the House, (and in making that appeal it can hardly be necessary to say that I intend no censure or disrespect, for I know that in any sentence of condemnation upon this ground I should largely participate,) whether he feels the same degree of responsibility, in relation to subjects which come under discussion in this House—whether he investigates them with the same patient attention and laborious research that he would do if they were to be decided upon by a less numerous body of which he was a constituent member? Mr. C. also contended that, by increasing the number of this House, it would receive too much the character of a popular assembly. There was a danger of its becoming a theatre upon which passion

would usurp the place of reason, and where imbecility and selfishness would become the willing instruments of demagogues within, or of men in power without.

This, it is true, is the popular branch of our Government; and I know it is said that, in order to secure the predominance in it of a genuine democratic spirit, it is necessary that it should be numerous. Sir, said Mr. C., I shall never be found in opposition to any measure which I believe calculated to secure the true, original, theoretical character of this House. I hope always to see it what it always ought to be—the faithful organ of the people's will, the firm and incorruptible guardian of the people's rights.

But, sir, if you would give to it this character, you must restrict its numbers within moderate limits. By rendering it multitudinous, you may indeed increase the aggregate of popular feeling, but you will inevitably weaken the force, the consistency, and the wisdom, of its operation. Sir, said Mr. C., this House must depend for its democratic character, not upon its numbers, but upon the mode of its constitution. From whom are its members chosen? From the great body of the people. By whom are they chosen? By the people at large with little restriction. And for what period? For the short one of two years. Is there then any reason to apprehend that a Representative thus chosen will not be sufficiently democratic? Or that one who is to return to his constituents at the expiration of two years, to receive their approbation or censure, will become aristocratic during the term of his service? For one, said Mr. C., I have no fears upon this head.

Something had been said of the British House of Commons, though Mr. C. did not very well understand what use it had been intended to make of it. He hoped it was not held up as an example to be imitated. He knew but little, indeed, in the modern history of that House worthy of our imitation. What, asked Mr. C., is the British Government at this day? He knew well what it was in theory; he had heard of its checks and balances, and of the nice adaptation of its parts. But in practice it is a military despotism. I know, too, said Mr. C., that the House of Commons is, in theory, the popular branch of that Government. But what is it in fact? Do we not, year after year, see a firm, unwavering, victorious phalanx in that House, moving forward in the line marked out by the Minister, and giving its sanction to the most tyrannic measures? Besides, it is well known that nearly one half of that House is chosen by little more than five thousand votes; and it is well known, too, that not more than one-third of the members are in the practice of attending.

Much, said Mr. C., has been said about the danger of Executive influence. He would not say, with the gentleman from North Carolina, (Mr. SANDERS,) that he believed it imaginary; but this he would say, that a numerous House would be much more obnoxious to it than one of an opposite character.

One word, said Mr. C., in regard to such of the old States as, by the adoption of a high ratio, will

lose a part of their present number of representatives. This has been treated as something humiliating and degrading to these States; and even the gentleman from North Carolina, (Mr. SANDERS,) who argued in favor of a high ratio, seemed to countenance that idea. But, sir, said Mr. C., a moment's reflection must convince any gentleman that this is altogether imaginary; for, establish what ratio you will, and the relative weight of the States will of course continue the same. And the loss complained of is nothing else than a consequence of the unequal progress of population, rendered altogether inevitable by the principles of equal representation.

Mr. TUCKER, of Virginia, had proposed 38,000 as a ratio, because it would be convenient to the State of which he was a representative; as it would give to that State its present delegation, and thus save its Legislature the trouble of making a new arrangement of its districts. He felt, however, no great solicitude whether the number was 38, 39, 40, 41, or 42,000. He was only solicitous that the number should not be too large. He paid little regard to fractions. If, by any particular, one State lost, it will universally be found that, by the same number, a neighboring State gained. He had compared the effect of different numbers on different sections of the Union, and found that no number would make much difference between these great divisions. He thought we ought to continue the policy we had hitherto pursued, and increase the number of the House as well as the ratio. He knew it was the opinion of some gentlemen that the number of representatives was as large, or nearly so, as was consistent with the purposes of debate and deliberation. If that opinion were correct, we ought not to increase the number, however desirable it may be otherwise. The evil of too weak a connexion and intimacy between the representative and his constituents was irremediable. He thought, however, the dangers apprehended from a further increase of the numbers in the House ideal, and he would briefly state his reasons. The State Legislatures, it was true, had, in many instances, limited their numbers to 100; and for what good reason could not be easily divined, unless to conform to the speculations of a French writer, who said that any Legislature of more than one hundred members was a mob. The State of Virginia has had a number of double that prescribed, but no such result has followed. This House, also, has had about two hundred, and yet the order and decorum for which it had always been distinguished, fully proves the fallacy of the Frenchman's theory. The English House of Commons also contradicts such reasoning. Whatever may be the defects of that body, yet its labors have raised that nation to a highest point of wealth and importance. If the happiness of the people had not been proportionally advanced, it was because that had been a secondary consideration with them. It had been said, however, that a proper proportion ought to be maintained between this House and the Senate. Their deliberations had effected the objects to which they were directed. He would admit the correctness of the abstract proposition,

JANUARY, 1822.

Apportionment Bill.

H. OF R.

but it would be recollected that this House had much business to perform that was peculiar to it, and from which the Senate was entirely exempted. Yet it was worthy of consideration that any question which admitted of debate, was liable to as protracted a discussion in that House as in this. The length of debate did not depend upon the numbers of the body where it took place. An important subject is discussed now until it is exhausted; it will be discussed no longer then. For experience has shown that however many may be prepared to express their sentiments upon a given question, yet they will not, from regard to their own character, and respect due to the House, when its impatience is manifest, repeat arguments that have been frequently urged. There is a *vis medicatrix* in bodies politic as well as natural, which acts with most vigor when that vigor is most required; and the forbearance and good sense of speakers, and the impatience of hearers, is the natural and effectual corrective of excessive debate. If, then, said Mr. T., we can, without defeating the great purposes of deliberation, increase the number of this House, there were strong reasons, he thought, why we should do so. All would admit that this House should represent the interests, wishes, and feelings of the people; and if we look a little into futurity we shall find that this desirable end will not be attained without an increase of the representatives.

If we cast our eyes forward, in the course of seventy-five years we shall find, judging of the future by the past, that this nation will comprise upwards of seventy millions of people. Even then we should have but the sparse population of forty or fifty to a square mile. But, at the limitation proposed, a member of this House would represent more than 300,000 inhabitants. This, he thought, manifestly created too great a distance between the Representative and the constituent. It had been said, by a gentleman near him, (Mr. VANWYCK,) that, owing to the facilities of communication, it was not much less inconvenient than formerly for a member to represent a large number of constituents. This might be so in the thriving State of New York, but it was not so in the Western States and in some other part of the Union.

The comparative number was not now greater in favor of the House of Representatives, Mr. T. contended, in relation to the Senate, than it was after the first census; and, owing to the recent cession of Indian reservations and territories, and the admission of new States, particularly Michigan, Arkansas, the Floridas, &c., there would probably be soon a disproportionate increase of that body, if the numbers of the House of Representatives was to be confined within narrow limits. With respect to the inconvenience that had been suggested, he would ask how it had happened that in the British Parliament not only the general interests of the Empire were attended to, but even the local and municipal regulations of petty districts were decided? How was it done? In the Committee rooms. It is to be recollected that they not only had to perform the legislative duties of this House, but of the State Legislatures, and these

multiplied functions, large as that body was, they found no difficulty in discharging, with the aid of their committees. And such was, and must be, he contended, the course here. The business of this House, as our experience tells us, must increase with the increase of our territory, our population, and our public establishments. There was another consideration which, to his mind, was of great importance. It might happen that an election of the President of the United States might devolve upon this House. It was a contingency that did not merely exist in remote and improbable speculation; and, if such should be the case—if the members of this House should from their stations be liable to the operation of such conflicting interests as would be brought to bear upon them, it was not difficult to imagine that the greater the number of Representatives, the less was the danger that they could be affected by improper influences. In such case, he thought all would admit that safety consisted in numbers; and he hoped that at all events a greater ratio than 40,000 would not be adopted.

Mr. LOWNDES rose to express his hope that the number of 42,000 would be ultimately adopted, and that the bill would be recommitted with instructions to the Committee of the Whole to fill the blank with that number; for, although it had been rejected, yet the majority was very small against it, and comprised, he believed, many whose views would not so well meet upon any other number as on that which had been refused. On a suggestion from the Chair, however, Mr. L. waived his proposition for the present.

Mr. CUTHBERT, of Georgia, then rose, and presented his views of the subject to the House. To enable one to judge, and to judge properly, of the influence of a greater or lesser number of members in any legislative body, nothing, he said, could be more happy than to recur to the experience of another legislative body. The rising of the gentleman from South Carolina, just now, had reminded him of some facts, which he had learned from him respecting the British House of Commons, facts which had much influence in convincing him (Mr. C.) that an increase of the number of the members of this House would be detrimental to the public interest, by forcing a mode of doing business which could not be permitted under our free institutions. In the British House of Commons, Mr. C. said, the business of the House was conducted by a small number of men. If cases drawn from the British House of Commons are entitled to any influence at all on this question, it must be against the increase of the numbers of this House. A very small number of the members of that House were in the habit of engaging in debate, or even of taking any interest in what was going on in the House—and even those who voted, formed but a small proportion of the whole number of the House. The consequence was, an appearance of levity and tumult in their egress and regress, rushing out carelessly and returning in mass, &c. Mr. C. asked whether the grave character of the American people, or the character and composition of this House, would justify such a

mode of proceeding here—whether the American people did not demand that *their* Representatives should take a deep and patriotic interest in public affairs? If in the British House of Commons the business of legislation was thrown into the hands of a few members, and the remainder took but little interest in public affairs, what was the cause of it? It was to be found in their numbers, as, from the principles of human nature, could be made to appear. In a small body of men, Mr. C. argued, there soon takes place a certain degree of confidence and a mutual understanding, which enables its members to understand each other's dispositions, and to ascertain whether any and what influence is to be expected from further debate of any question. That being ascertained, debate ceases to be useful, but on the contrary is wearying and distressing to those who are obliged to hear it. In a large body of men, Mr. C. said, this could not be the case. Among six or seven hundred men, who are and remain in a great measure strangers to each other, there cannot be that free intercourse which makes known to each the sentiments of the rest, and there exists besides a diffidence produced by being thrown into a mass of men to whom you are entire strangers, &c. The effect is to put down those who would attempt to debate, with the exception of an inconsiderable number. The alternative of an excess of debate is necessarily to commit the business of debating into the hands of a few persons, to the exclusion of all the rest. Now, Mr. C. asked, whether such a practice would be tolerated in this country, and in this House. The people of this country, Mr. C. added, would not be content unless their Representatives expressed, occasionally at least, their sentiments otherwise than by voting. Was this not true from the experience of every member of this House? Did not every man understand that it was expected by the people that those who represent them shall, at least occasionally, express their opinions on public affairs? Would it be tolerated, then, that a large majority of this House should be placed in a state of total inaction?

There was another consideration, Mr. C. said, which should weigh heavily with this House; which at least weighed heavily with him. In a country like this, of modern date, and rapidly changing its condition, all its legislation has the effect of precedent, establishing principles of government for the future. Would it not be a matter of serious moment that principles should be now established which would make it inconvenient hereafter to extend the legislation of the country over a larger space? And if there be an inconvenience in bodies being too large, and yet the principle prevails that as our population spreads the number of this body shall be increased, would not a rapid increase of the number of this House, at the present day, have a tendency to bring our Government in the end to dissolution? By dissolution he meant a severance of the States. He was not disposed to exaggerate this matter. His suggestion was only that such would be the tendency of a considerable increase of the numbers of the House at present; and every tendency to

such an evil ought to be firmly met and most earnestly resisted. The sentiment which he had expressed on this subject, Mr. C. said, was not peculiar to the individual who now addressed the House, but it was general with the people of this country. It was not a mere speculative opinion thrown out here, but it was a sentiment deeply felt by the mass of this people.

Some remarks, Mr. C. suggested, in conclusion, had been made upon this subject, which seemed to him not to be well founded, one of which only he should notice. It seemed to be thought by some gentlemen; that, by enlarging the ratio, the small States must suffer a decrease of power and dignity. It was not so, Mr. C. said, because the rule of apportionment equally applied to the large States and to the small. Though there should be therefore a positive decrease in the number of members from any State, it would be only a proportional decrease.

Mr. BAYLIES, of Massachusetts, said that he had but a very few remarks to make upon the subject under consideration, and that he rose with an embarrassment upon his feelings which he could with difficulty repress. When he said that he was embarrassed, he trusted it would not be thought affectation. He declared that this was the first time he ever attempted to speak in a legislative assembly. A first attempt, said Mr. B., has claims to indulgence, and I trust that the courtesy of this House will be extended to one who is almost a stranger to public debate.

I am, said Mr. B., opposed to the number of 45,000, which has been proposed as the representative ratio by the gentleman from New York. Sir, I must be permitted to say that, during the course of this discussion, I have heard some doctrines confidently advanced which wear a strange and novel aspect to me. If I understood the course of reasoning pursued by the gentleman from North Carolina, it went to establish this position, that the less the number to whom the legislative power was intrusted, the greater would be the security of the people; and such I also understood the opinion of the gentleman from Maine to be. That the security of the popular rights was strengthened by increasing the number of those to whom the legislative power was intrusted, was once held to be sound republican doctrine; and that class of statesmen who were, at the time of the adoption of the Constitution, most zealously attached to popular rights, found a strong reason for objecting to the Constitution because it established the minimum ratio at 30,000. So far as precedent goes, it is against the increase from 35 to 45,000, as the representative ratio. We were twenty years in getting from 33 to 35,000; and now, sir, it is proposed to make a flying-leap, and at one dash to add a number amounting to nearly a third of the existing ratio. Sir, the power of this nation may be intrusted to too small a number. This House is the citadel of the people; it is on this floor that the great battles for their rights must be fought; and, if we lessen the number of the garrison, we weaken the real defence of the Republic. It has been said, sir, and with some degree of reason, as

JANUARY, 1822.

Apportionment Bill.

H. OF R.

I think, that the smaller the number of representatives the more accessible they would be to the influence of the Executive. I am not one of those who imagine that there is a stream of corrupt Executive influence constantly setting into this House. Still I do not mean to say that Executive influence is never exerted to effect a favorite object. I am not disposed to be jealous; neither would I be over-confident. I have full confidence in the Representatives of the American people. I wish to see them pursuing an independent and manly course, unbiassed by partialities, unswerved by interest; neither yielding to Executive influence, on the one hand, or to popular prejudices on the other; never debasing themselves to the condition of slaves, because they are the agents of the people, and disdaining all the patronage of the Executive when that patronage is to be obtained only by becoming the creatures of the Executive. I wish to see them too proud to be minions, and too honest to be demagogues.

A bold and ambitious President, and such a one we shall have sooner or later, would not hesitate to use the influence of his office to operate upon the popular branch of the Government, and the surest check which could be interposed against such an influence, would be gained by increasing the number of those who hold, (if I may so call it,) the resisting power of the Government. Should we adopt the ratio of 75,000, as proposed by the gentleman from Vermont, (Mr. KEYES,) our number would be reduced to little more than 100, of whom less than 60, would constitute a majority. That majority would be marked men. There are many ways in which they might be assailed, without a direct and corrupting influence. They might be assailed on the side of their prejudices, their partialities; they might yield themselves to the blandishments of flattery: the better feelings of their hearts, where understood, might induce them to support the Administration, and, with the purest and most patriotic sentiments, they might find themselves rallied under the Executive banner, and contending against the people. I do not believe, sir, in the immaculate purity of any legislative body.

That "every man had his price," is said to have been a remark of Sir Rober Walpole, and no man better understood the most difficult of all sciences, the science of the heart. I am bound to believe that every gentleman holding a seat on this floor, is an honorable man, but I am not bound to believe that he is more than man.

In future days, there will be men, who, by deluding the people with false professions, will obtain seats on this floor, men who, by their talents and speciousness, will acquire an influence over the minds of others—men who will be constantly in the market, ready to act any part by which their own views would be promoted, and open to corruption in all its shapes. Such men have been here—yes, sir, felons have held seats on this floor, and have mingled with the wise and the honorable of the land, their equals in political rank. As the people in the aggregate are honest, so will their representatives be honest. By increasing their

numbers, you add to the means by which corruption may be resisted.

I am sensible that there is no magic in particular numbers. I am willing to vote for a number by which the present representation of Delaware might be retained, yet I despair of obtaining that number. After all, the agreement in any particular number must be the result of compromise and concession; call for the votes of the House on all the different ratios which have been proposed, and, my word for it, not one fifth part would agree in any particular number. Forty thousand was the number reported by a committee, consisting of members taken from every State, who, after investigating the subject, and comparing the operations of the different numbers, reported that number, as their deliberate sense. On a question like this, something is due to the opinion of the committee, and I think we ought not to abandon that number without strong and conclusive reasons.

Sir, I am willing to avow, and I do frankly avow, that my principal objection to the numbers which have been moved, (above 40,000,) is on account of the cruel operation which those numbers will have upon the State of Rhode Island, which State, by the adoption of either, will be deprived of one-half of its representation.

The gentleman from Virginia, (Mr. RANDOLPH,) the other day, with his usual eloquence, alluded to the State of Delaware, and although I am willing to assent to the whole of his eulogium upon that State, still, I must be permitted to say, that in enterprise, in industry, in talents, and in patriotism, the State of Rhode Island is not surpassed by any other in this confederation. Sir, notwithstanding the equality of her vote in the Senate, she has never been over-represented.

There is no State in the Union, in proportion to territory and population, which can sustain any comparison with Rhode Island, in commercial and manufacturing capital. In commercial consequence she maintains the fifth rank amongst the States. As a manufacturing State, I do not know that I should say too much, if I said that she maintained the first: and if I brought into the estimate the amount of manufacturing capital owned by citizens of Rhode Island, and employed in the States of Connecticut and Massachusetts.

In one part of the State, the enterprise and skill of her farmers have rendered her soil more productive than any I have ever yet seen.

The enterprise of a Rhode Island merchant opened the way to the trade of the Indies.

The first cotton manufactory that was ever reared in America, was reared in Rhode Island.

Has she no claims upon the gratitude of the nation for Revolutionary services? Rhode Island almost commenced the Revolution; the burning of the Gaspee was the first open and forcible act of resistance to the authority of Great Britain. The destruction of the tea at Boston, although prior in time, was effected by men in disguise. Rhode Island for a long time was one of the principal seats of the war, yet she did not confine her exertions to her own territory; at Red Bank, and in New Jersey, the blood of her sons, her gallant

sions, was poured out like water. The Rhode Island regiments were not excelled by any; in an army where all were patriots, and all were heroes, the laurel never encircled nobler brows than those of her Olneys, her Dexters, her Sherburnes, and her Greenes. If ever the flame of patriotism burnt pure and unadulterated, it was in the bosoms of the Revolutionary whigs of that State. The Revolutionary navy was confided to a Rhode Island commodore.

Has she not furnished to our national councils her full proportion of talent, and patriotism? Sir, in the last Congress, the two Senators of this little State were the ornaments of the body of which they were members. It is not indecorous to allude to them; one sleeps in the grave, and one is in private life, yet they were not excelled by any others in genius, eloquence, political knowledge, and in generous and manly feeling. If she has given to your Revolutionary armies and navies her Greenes and her Hopkinses: If the Western frontier was rescued from the horrors of the scalping knife, and the tomahawk, during the last war, by the consummate skill, and matchless bravery of Oliver Hazard Perry, a favorite son of Rhode Island: If she has sent her Burrills and her Hunters to your national councils: If she pays more money into the national coffers, (with the exception of four,) than any single State in the Union: If her enterprise has disclosed one of the most profitable sources of trade: If she gave the first impulse to that branch of national industry, which, more surely than any other, will develop the national resources, and lead to national wealth: I think it is incumbent on us to hesitate a long time before we do an act which will materially lessen her influence, and consign her to the lowest rank in our Republic; and I think it right, in settling this question, which is a question of discretion, that all these circumstances should have their weight. She is one of the old thirteen States. In the contest for independence she nobly sustained her part. For one, I do not wish to witness the waning of this small but bright and glorious star. But, sir, if the amputating knife must be used, she must submit. She will submit, with regret indeed, but I trust with dignity. She will still be found leaning on her anchor, and trusting to her God.

MR. BALDWIN, of Pennsylvania, next addressed the Chair. He presented the idea, that our population is so rapidly increasing that any ratio determined upon the basis of the enumeration lately taken must be nominally less than it really is. At this moment, he said, though the ratio fixed upon ten years ago was 35,000, the actual ratio was, by progressive increase of population, as high as 51,000. And, if the ratio were now to be fixed, on the basis of the census, at 45,000, before the members elected under the new apportionment could come in, the ratio would in fact be more than 50,000. If, he said, we calculate the annual increase of our population at four per cent. and the ratio be fixed by law at 35,000, it will be at this moment in fact 40,000, owing to the growth of our population; and very few years would elapse

before it would in reality be 45,000. This was a view of the subject which, Mr. B. said, he thought gentlemen ought to take. They ought to ascertain, not what was the most convenient number at this moment, but what would continue to be so during the whole of the period which will intervene before the next census. If the ratio should now be fixed at 40 or 45,000, during the greater part of that period it would be in reality 40,000. If the House were now fixing the ratio for the term of one Congress, it would be a matter of comparatively little importance what ratio was determined upon. Instead of following the true policy of our Government, to bring the representative as near as practicable to the constituent, gentlemen seemed to be desirous of throwing him to a greater distance.

With regard to the best number for business, Mr. B. believed that more business would be done in this House were it composed of a greater number of representatives; and the best check upon the disposition to spend time unnecessarily here would be this: that every member, when he gets up to address this House, should reflect that he is taking up the time of a great nation, and that he ought not to take up that time unnecessarily. Of one thing, he said, he was certain in his own mind, and he thought experience would sustain the position, that the larger the district from which you elect a member of Congress the worse will be the choice, because the people will have less opportunity to know the man personally. He believed, if the districts were of limited extent, better men would be sent, and the business of the House would be better done than if they were larger.

Mr. B. then presented the subject in another point of view; and he said if there was any contingency to which he looked with apprehension, amounting almost to horror, it was to that which would throw the election of President of the United States on the House of Representatives. Look, said he, at the effect of the high ratio of 45,000, which you are now invited to fix upon. By adopting it, you will increase the number of those who by their single voice can give a State's vote in that election. Deliver us from temptation! Make the single votes as few, said Mr. B., as you can. What would be the effect here, if five or six of the members had as many votes, they being sole representatives? Without saying that one member would be more willing than another to receive a bribe, yet certainly it would be less difficult to corrupt a vote where one person only was to be bought than where there were seven and twenty. He did not speak of bribes of money, but of promises, hopes, or corrupting obligations of any sort; and certainly the facility and inducement to such intrigues would be greatly increased where, to command six or seven out of four and twenty votes, you have only to operate on as many men. We owe it to ourselves, and to the existence itself of the Government, perhaps, to guard against such evils. This he said without any feeling of disrespect to any of the small States. On the contrary, he said, he felt towards them as the gentleman from Virginia did—that, by curtailing their repre-

JANUARY, 1822.

Apportionment Bill.

H. OF R.

sensation, the House was cutting down the members of the old Confederacy. He was unwilling to cut them down. He looked to the members of the old partnership as to national monuments; and, as he would be unwilling to see any other monument defaced, so was he averse to defacing or curtailing the proportions of the States of Maryland and Delaware, &c.

A share they have hitherto had, and a share they are entitled to. We should ill requite the services, sacrifices, and exertions, of those States, to say to them, when we feel our strength, we will set you aside as the useless scaffolding of a building we have reared.

Although, Mr. B. said, the number of the members of this House had already been greatly increased since that of the first Congress, we do not find that any practical evils have flowed from it. Congress do not sit longer now than they did in 1795 and 1796, &c., when there were but 105 members. When our population was 3,600,000, the number of the members of this House was 105. At the next census, the number was increased to 141. In 1810, it was increased forty odd more. This, Mr. B. said, was accordant with the genius of our Government. It was the impulse on which former Congresses had all acted, when they had undertaken to fix the ratio of representation. He should like to hear some reason, founded on principle, why that should not now be the policy of Congress. Bring the representative, said he, as near as you can to the constituent. Let the interests and feelings of the people of every part of the country be as nearly represented as they can. Why shall we now say that 50,000 souls shall have but one representative, whilst, from the beginning of the Government, there has been one to every 33,000 or 35,000? He thought, he said, that when gentlemen ask the House to break up established principles, they ought at least to show ill effects resulting from them. Now that our Government has been in operation two and thirty years, and, as far as respects the representative principle, successfully in operation, with the approbation of the whole world, why, he asked, were gentlemen disposed to go on a new track? Why was it more consistent with principle now, that one man should represent 45,000 or 50,000 persons, than that we should pursue the principle which so far has borne us safely on? When gentlemen came to look at this question, and reflect on it seriously, he thought they would be disposed to concur in his opinion, and oppose any ratio higher than 35,000 for each member.

A few further remarks were made by Mr. RHEA, in opposition, when the question was taken, and decided in the negative—yeas 61, nays 118, as follows:

YEAS—Messrs. Abbot, Bateman, Borland, Brown, Buchanan, Cassidy, Colden, Condict, Conkling, Crudup, Cuthbert, Dane, Darlington, Denison, Findlay, Gilmer, Gross, Hawks, Hemphill, Hendricks, Hubbard, F. Johnson, Keyes, Kirkland, Litchfield, Little, McSherry, Matlack, Matson, Metcalfe, Milnor, Montgomery, Moore of Pennsylvania, Morgan, Murray, Patterson of New York, Patterson of Pennsylvania,

Phillips, Pierson, Plumer of Pennsylvania, Rankin, Rich, Rogers, Ruggles, Sanders, Scott, Sergeant, Spencer, Stewart, Swan, Tatnall, Taylor, Tod, Tracy, Trimble, Vance, Van Wyck, Walworth, Williamson, Wood, and Worman.

NAYS—Messrs. Alexander, Allen of Massachusetts, Allen of Tennessee, Archer, Baldwin, Ball, Barber of Connecticut, Barber of Ohio, Barstow, Bassett, Baylies, Bayly, Bigelow, Blackledge, Blair, Breckenridge, Burrows, Burton, Butler, Cambreleng, Campbell of New York, Campbell of Ohio, Cannon, Causden, Chambers, Cocke, Conner, Cook, Crafts, Cushman, Dickinson, Durfee, Dwight, Eddy, Edwards of Connecticut, Edwards of North Carolina, Eustis, Farrelly, Floyd, Fuller, Garnett, Gebhard, Gist, Gorham, Hall, Hardin, Harvey, Herrick, Hill, Hobart, Holcombe, Hooks, Jackson, J. T. Johnson, J. S. Johnston, Jones of Tennessee, Jones of Virginia, Kent, Lathrop, Leftwich, Lincoln, Long, Lowndes, McCarty, McCoy, McDuffie, McNeill, Mallary, Mattocks, Mercer, Mitchell of Pennsylvania, Mitchell of South Carolina, Moore of Alabama, Moore of Virginia, Neale, Nelson of Massachusetts, Nelson of Maryland, Nelson of Virginia, New, Newton, Overstreet, Pitcher, Plumer of New Hampshire, Poinsett, Randolph, Reed of Massachusetts, Reid of Georgia, Rhea, Rochester, Ross, Russ, Russell, Sawyer, Sloan, S. Smith, Arthur Smith, W. Smith, Alexander Smyth, J. S. Smith, Sterling of Connecticut, Sterling of New York, Stevenson, Stoddard, Swearingen, Thompson, Tucker of South Carolina, Tucker of Virginia, Upham, Warfield, Whipple, White, Whitman, Williams of North Carolina, Williams of Virginia, Wilson, Woodcock, Woodson, and Wright.

Mr. CONDUCT then moved to strike out the said word *forty*, and to insert, in lieu thereof, the words *thirty-nine*. And the question thereon being taken, it was also determined in the negative—yeas 56, nays 120, as follows:

YEAS—Messrs. Allen of Massachusetts, Allen of Tennessee, Ball, Barber of Connecticut, Barstow, Baylies, Bigelow, Blair, Burrows, Cambreleng, Cannon, Cassidy, Colden, Condict, Conner, Cook, Crafts, Cushman, Dane, Dickinson, Durfee, Dwight, Eddy, Edwards of Connecticut, Farrelly, Fuller, Gist, Gorham, Harvey, Herrick, Hill, Holcombe, F. Johnson, J. T. Johnson, J. S. Johnston, Lathrop, McDuffie, Mallary, Matlack, Mattocks, Moore of Alabama, Nelson of Massachusetts, Patterson of New York, Randolph, Reed of Massachusetts, Rochester, Russ, J. S. Smith, Sterling of Connecticut, Sterling of New York, Stoddard, Swan, Tucker of Virginia, White, Wilson, and Woodcock.

NAYS—Messrs. Abbot, Alexander, Archer, Baldwin, Barber of Ohio, Bassett, Bateman, Bayly, Blackledge, Borland, Breckenridge, Brown, Buchanan, Burton, Campbell of N. Y., Campbell of Ohio, Causden, Chambers, Cocke, Conkling, Crudup, Cuthbert, Darlington, Denison, Edwards of North Carolina, Eustis, Findlay, Floyd, Garnett, Gebhard, Gilmer, Gross, Hall, Hardin, Hawks, Hemphill, Hendricks, Hobart, Hooks, Hubbard, Jackson, Jones of Tennessee, Jones of Virginia, Kent, Keyes, Kirkland, Leftwich, Lincoln, Litchfield, Little, Long, Lowndes, McCarty, McCoy, McNeill, McSherry, Matson, Mercer, Metcalfe, Milnor, Mitchell of Pennsylvania, Mitchell of South Carolina, Moore of Pennsylvania, Moore of Virginia, Morgan, Murray, Neale, Nelson of Maryland, Nelson of Virginia, Newton, Overstreet, Patterson of Pennsylvania,

Phillips, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Rankin, Reid of Georgia, Rhea, Rich, Rogers, Ross, Ruggles, Russell, Sanders, Sawyer, Scott, Sergeant, Sloan, S. Smith, Arthur Smith, W. Smith, Alexander Smyth, Spencer, Stevenson, Stewart, Swearingen, Tatnall, Taylor, Thompson, Tod, Tracy, Trimble, Tucker of South Carolina, Upham, Vance, Van Wyck, Walworth, Warfield, Whipple, Whitman, Williams of North Carolina, Williams of Virginia, Williamson, Wood, Woodson, Worman, and Wright.

Mr. RANDOLPH then rose and remarked that, if there was any prospect of success, he should move to try the question on a ratio of 30,000. He was in favor of making the House as numerous as the Constitution would permit, always keeping within such a number as would not be inconvenient for the transaction of business. For in that respect the Legislature of a little Greek or Swiss Republic—of the smallest State, might be as numerous as that of the United Kingdom of Great Britain and Ireland. The only limit was the capacity to do business in one chamber, and in his opinion it was desirable to have as great a number as would keep on this side of a mob; and for this there were some reasons which he had not offered yet, but which he had intended to present on Monday last. One of the most profound female writers of the present age—and perhaps he might amend by striking out the word “female”—had pointed out the superiority of the Legislative body in England over that of France, and had attributed it to the circumstance that, in the British Parliament, no man is permitted to read a speech, but is obliged to pronounce it *ex tempore*, whereas in the French Legislative Assembly, the rage for making speeches was excited by the usage that any man who could manufacture—yes, could manufacture one, or get some one else to do it for him, ascended the tribune and delivered, and afterwards printed, it—and hence, their notion that an assembly of more than one hundred, if composed of Newtons, might well be called a mob. But the practice in England naturally forced out the abilities of the House. The speaker was obliged to draw upon his own intellectual resources, and upon those talents with which Heaven had endowed him. Talents descend from Heaven, they are the gift of God—no patent of nobility can confer them; and he, who had the right beyond a monarch's power to grant, did conduct the public affairs of the country. But by the contrary practice, the French nation (according to Madam de Stael) was cheated, and men passed, in the opinion of the people, for more than they were worth. She adds that, when a man is enabled to stand well with the people, on as small a stock of abilities as suffice to enable him to curry favor with the Prince, the cause of free government gains nothing.

We had been told of corruptions, and of the dicta attributed to Sir Robert Walpole. That statesman had been slandered as much as any man of our times, or perhaps of any other. This saying, that had been ascribed to him, he, Sir R., always disavowed—although it had served to pull

him down; for it was easy to put a falsehood into circulation, but difficult to recall it: He said, “Those men (alluding to particular persons) have their prices;” but it was not an universal remark, and he was understood always to except William Shippen from it. The gentleman from Georgia (Mr. CUTHBERT) had feared that a large ratio would introduce the evils of an oligarchy. But it would be recollected that our Government, in its head, was monarchical. It was useless to quarrel about words, for such was the fact; and, as some writers say, not the best form of monarchy—elective: but on this he would express no opinion. There was another body, too, the Senate, that was oligarchical, and an oligarchy of the worst sort; for the representatives of the State sovereignties were not removable by them. What would become of the House of Representatives if the whole rays of Executive influence should be concentrated upon it as a point? It would be consumed, or, like a diamond under a lens, it would evaporate. There were, nevertheless, as stupid speeches made, Mr. R. believed, in the British House of Commons as here. Read Mr. Fuller's, who was a knight of a shire, not a member of a borough—not of old Sarum—nor even for a manufacturing county: or read the speeches of Mr. Drake. This was one of those cases in which the maxim, *de mortuis nil nisi bonum*, did not apply.

One of the advantages that would result from increasing the ratio would be, the getting rid of this stationery shop. An easy armed chair, a mahogany desk, furnished with paper, &c., was indeed very comfortable; but, with Henry the Fourth, he would say, that, with all these “appliances and means to boot,” business was not as well done as if they were worse provided. In his opinion they did not get along as well as if these desks were removed. In Virginia, the Legislature does not, as here, bury the public business under a mass of printed documents that no body reads. Here, said he, we substitute the eye for the ear, as had been well said by a gentleman from Georgia; but we have gone on to substitute then the averted look for the exercise of the eye. If gentlemen would turn their attention to the contingent expenses they would find they had grown to be enormous—and for what? For these accommodations, which, like accommodations at banks, did no good to those who make use of them.

There was another point of view in which Mr. R. considered the increase of the representation as important. He alluded to the large territory and sparse population of many of the districts, particularly in the South and Southwestern parts of the Union. They must, from moral and political, as well as physical causes, continue so; and, while a man might be a good representative for a city or county of dense population, it did not follow that he could well represent a district perhaps of pine barrens, which must be very extensive to include a sufficient number, even at the present ratio of representation. Mr. R. extended his remarks to a considerable length in enforcing his views of the expediency of diminishing the ratio, and concluded by remarking that, if he was not supported by

JANUARY, 1822.

Proceedings.

H. OF R.

a single member of the House, yet he would move to fill the blank with 30,000.

Mr. CUTHBERT made a few remarks in reply; to which Mr. RANDOLPH rejoined, assuring the gentleman from Georgia that he had entirely misapprehended him.

Mr. RHEA protested against adverting to the British House of Commons as authority for settling the ratio of our representation. He was in favor of a small ratio; but, before any question was taken on the motion, the House adjourned.

THURSDAY, January 31.

Mr. LITTLE, from the Committee on Pensions and Revolutionary Claims, make a report on the petition of John Guthry, accompanied by a bill for the relief of his legal representatives; which bill was read twice, and committed to a Committee of the Whole.

Mr. CAMPBELL, from the Committee on Private Land Claims, made a report on the petition of the heirs and legal representatives of Marie Therese, accompanied by a bill for their relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. RANKIN, from the Committee on the Public Lands, to which was referred the bill from the Senate, entitled "An act for the relief of John Coffee," reported the same without amendment, and the bill was committed to the Committee of the Whole.

Mr. RUSSELL, from the Committee on Foreign Relations, to which was referred the petition of Alexander Mactier, George W. Dashiell, and Archibald Stewart, made an unfavorable report thereon, entering at large on the subject of the spoiliations committed on the commerce of the United States by French armed vessels, between the years 1795 and 1800; which report was committed to a Committee of the whole House tomorrow.

Mr. HILL communicated to the House certain resolutions adopted by the Legislature of the State of Maine, approbatory of the principles contained in the resolutions of the General Assembly of Maryland, communicated to this House at the last session of Congress, in relation to an appropriation of public lands for the benefit of education, in those States in which such an appropriation has not been made.

Mr. MALLARY communicated to the House similar resolutions adopted by the Legislature of the State of Vermont.

The resolutions were referred to a Committee of the whole House on the state of the Union.

On motion of Mr. CAMBRELENG, the Committee of Ways and Means were instructed to inquire into the expediency of revising an act, passed 20th of April, 1818, entitled "An act supplementary to an act, entitled 'An act to regulate the collection of duties on imports and tonnage, passed the 2d March, 1799.'"

On motion of Mr. COOK, the Committee on the Judiciary were instructed to inquire into the expediency of making copies of all papers relating to

land titles, filed in the Treasury Department, evidence in the courts of the United States, when such titles may come in question; and, also, of authorizing individuals, interested therein, to obtain such copies, properly authenticated, when applied for.

Mr. COCKE submitted the following resolution, viz:

Resolved, That the President of the United States be requested to cause to be communicated to this House, the amount of public money paid to the Attorney General, over and above his salary fixed by law, since the 1st of January, 1817, specifying the time when paid, for what particular service, the amount in each case, and by what authority such payments have been made.

The resolution was ordered to lie on the table one day.

On motion of Mr. ABBOT, the Committee of Ways and Means were instructed to inquire into the expediency of passing, at the present session of Congress, an act of appropriation to carry into effect the treaty entered into with the Creek Indians, and ratified the 2d day of March, 1821.

On motion of Mr. VANCE, the Committee on the Public Lands were instructed to inquire into the expediency of giving, for county purposes, a portion of the United States' lots within the towns of Perrysburg, county of Wood; and Croghansville, county of Sandusky, and State of Ohio: *Provided*, The seats of justice for said counties be established in said towns.

On motion of Mr. ROSS, the Committee on the Judiciary were instructed to inquire into the expediency of providing, by law, for the payment of such officers of the State courts as have been employed in collecting the internal revenue of the United States since the commencement of the late war.

On motion of Mr. STERLING, the House agreed to consider the report of the Secretary of the Treasury on the subject of the compensation allowed to the collector of the customs at Cape Vincent, in the State of New York; and the same, on further motion of Mr. S., was referred to the Committee on Commerce.

Mr. ROCHESTER communicated to the House a printed copy of a memorial, purporting to be from the inhabitants of the counties of Ontario, Seneca, Tompkins, Tioga, and Steuben, in the State of New York, and addressed to the Legislature of that State, representing the great advantages which would result to the country at large by the opening of a canal navigation between the rivers St. Lawrence and Susquehannah, and the great facilities offered for the opening of such navigation; which memorial was committed to the Committee of the whole House to which is committed the bill to procure the necessary surveys, plans, and estimates, on the subject of roads and canals.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

In pursuance of a resolution of the House of Representatives of the 16th instant, requesting information with regard to outrages and abuses committed

H. OF R.

Vaccination.

JANUARY, 1822.

upon the persons of the officers and crews of American vessels at the Havana, and other Spanish ports in America; and whether the Spanish authorities have taken any measures to punish, restrain, or countenance such outrages, I herewith transmit to that House a report from the Secretary of State, containing the information called for.

JAMES MONROE.

WASHINGTON, January 30, 1822.

DEPARTMENT OF STATE,
Washington, January 30, 1822.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 6th instant, requesting of the President of the United States the communication of information respecting any outrages and abuses committed upon the persons of the officers or crews of American vessels at the Havana or other Spanish ports in America; and whether any measures have been adopted under Spanish authority tending to punish, restrain, or counteract either such personal outrages or piratical depredations upon the property of our merchants, has the honor of submitting to the President the statement of Captain B. I. Shain; with accompanying documents, containing all the information possessed by this Department embraced by that resolution.

JOHN QUINCY ADAMS.

The Message and documents were laid on the table, and ordered to be printed.

Another Message was also received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives of the United States:

In pursuance of a resolution of the House of Representatives of the 8th instant, I transmit to the House of Representatives a report of the Secretary of State, containing all the information procured by him in relation to commissions of bankruptcy in certain districts of the United States, under the act of 4th of April, 1800, "to establish a uniform system of bankruptcy in the United States."

JAMES MONROE.

WASHINGTON, January 30, 1822.

The said Message was read, and committed to the Committee of the Whole, to which is committed the bill to establish a uniform system of bankruptcy throughout the United States.

VACCINATION, &c.

Mr. BURTON, of North Carolina, rose and said it was with great reluctance that he claimed the indulgence of the House to introduce a resolution on any subject, when he remembered the manner in which the table had been crowded for several weeks past; but he assured the House that it was not his intention to add to the present herculean task of the Heads of Departments. For all those gentlemen, said he, I have the highest respect; and believing that they have full employment already, I shall endeavor to show my respect in some other way than by adding to their labors. Thus far in the present session I have remained silent; from which course I should not have departed, in the present instance, but from an imperious sense of duty. The substance of the resolution which I propose to offer is, that a select committee should be appointed to inquire into the expediency of repealing the law for the encouragement of vac-

ination, passed in the year 1813. I have no doubt but that this law originated from the purest principle of benevolence, since it has for its object to guard the human family against one of the most fatal diseases to which we are incident—I mean the small-pox. But, notwithstanding I have before stated that I believe that this law sprang from the best feelings of the human heart, yet it is likely to prove one of the greatest calamities which has for several years befallen that part of the country in which I reside. I have no wish to make an attack upon Dr. Smith, of Baltimore, (the vaccine agent, under that law,) or any other gentleman, without giving him a fair opportunity of defending himself. But this much will I say, that by some strange accident that disease has been introduced into North Carolina, and has in the course of a few weeks been scattered for several miles around. How this happened, no satisfactory account has been rendered. Some deaths have taken place, and the inhabitants in that part of the country are in a state of alarm and consternation, more easily imagined than described. I am very certain that any feeble effort, on my part, would fall very far short of reality. I wish a select committee to be appointed, who are capable to make a thorough examination of the subject. And if there has been any fault on the part of the agent, that he should not have it in his power again to do further injury under the sanction of the law. And if, on the other hand, there has been no fault on his part, he should be reinstated to public confidence, which has been much shaken by the late transaction.

Mr. B.'s resolution was in the following words:

Resolved, That a select committee be appointed, to inquire into the expediency of repealing the law passed in the year A. D. 1813, entitled "An act to encourage vaccination."

Mr. LITTLE made a few observations expressive of his high confidence in the integrity and professional talents and experience of Dr. Smith, whose conduct had been impeached; and believing that an investigation would prove that confidence to have been well founded, he expressed his hope that the resolution would be adopted.

Mr. FLOYD thought the object of the proposed inquiry could not be easily arrived at by a committee of this House. Thinking, as he did, of Dr. Smith, and entertaining the ideas which he did of the benefits he had rendered to his country, Mr. F. said, he believed such an investigation would be beneficial to Dr. Smith. It was as likely, he suggested, that the small pox had been introduced into North Carolina by some North Carolinian, as by any mistake of the vaccine agent. The latter had no motive to destroy his own occupation, but every possible inducement to conduct the agency with integrity, care, and skill. He had at first thought it best that the resolution should lie on the table a few days, until the subject which was now undergoing discussion and consideration was more attentively examined; but, on the whole, as the question had been moved, he would make no objection to its immediate adoption.

JANUARY, 1822.

Apportionment Bill.

H. OF R.

Mr. BATEMAN said that he had strong doubts of the propriety of making an investigation of the subject here at this time, thinking that the House was not in possession of sufficient information to justify it in proceeding to act upon it. If the resolution was to pass, he proposed to amend the resolution, by adding thereto the following:

"And whether there is any reasonable doubt of the efficacy of vaccination for the prevention of the small pox."

Mr. LOWNDES said, he hoped the resolution would not be extended as far as was proposed. However intelligent this House might be, it could hardly be supposed to be accurately versed in medical science. He should think, he said, that no committee of this House could be competent, or properly constituted, for the proposed investigation. Such a committee might be found in this House. But, he apprehended, that five physicians, being members of this House, could hardly be as well qualified as so many physicians who were not also invested with political characters. It appeared to him that this House had sufficient business, of a political character, to engage its attention, without being employed in inquiries of this nature.

Mr. FLOYD was unwilling to impose such a duty on the committee as the latter amendment contemplated. It was impossible to subject the disease to any law of ours; nor would the people be bound to respect any opinion or decision that we might express upon the subject.

Mr. BATEMAN said he had thought the proposed inquiry would necessarily involve the question of the efficacy of vaccination, especially as the gentleman had expressed no disposition to inculcate Dr. Smith. But, as there appeared to be a diversity of opinion on this point, to save difficulty he withdrew his proposition.

Mr. SERGEANT said that some gentlemen appeared to regard this resolution as having a direct bearing on Dr. Smith, which others denied. However that might be, the resolution appeared to Mr. S. to be calculated to produce a belief, out of doors, that an impression prevails in this House that vaccination is not efficacious as a preventive of small pox; and that an impression of that sort has given rise to an inquiry into the propriety of repealing this law. He therefore thought it ought not now to pass. It so happened, he said, that there has been prevailing in Europe a disease of an unusual kind, which has attracted the attention of the physicians everywhere, and which had had a tendency to bring doubts on the efficacy of vaccination generally. The disease had not spared those who had been vaccinated, or those who had been inoculated. But, where it had touched those who had not been vaccinated or inoculated, it had been a highly malignant disease, but where it had affected those previously vaccinated, it had been of a milder type. To prevent any erroneous impression from being drawn from the terms of this resolution, Mr. S. proposed to amend it so as to direct an inquiry whether any modification was necessary to the act referred to in the resolve.

Mr. BURTON consented to this modification.

Mr. KENT said, he knew not how the law establishing a vaccine agency could be modified. It gave no other powers at present to the agent than the privilege of franking his letters. He sympathized with the suffering people of North Carolina as sincerely as the honorable mover of the resolution, but regretted exceedingly the course the House was about to pursue on this occasion, as it was calculated not only unnecessarily to shake their confidence in vaccine inoculation as a preventive against the small pox, but that of the whole country. He believed but one opinion prevailed among disinterested and intelligent persons as to the efficacy of vaccine inoculation against the small pox, notwithstanding the appearance of a new disease both here and in Europe. The vaccine disease was certainly preferable to the inoculated small pox in its mildest and most successful form. He was informed that an investigation of the opinions of those who entertained doubts respecting the efficacy of the vaccine disease, as well as the unfortunate occurrence in North Carolina, was now making by the medical gentlemen in Baltimore; and he had no doubt, if the House would consent to lay the resolution on the table for a few days, that their report would be received, and would prove much more satisfactory than any report that could emanate from a committee of this House. He therefore moved to lay the resolution on the table.

The question being taken on this motion, the resolution was ordered to lie on the table accordingly.

REPUBLIC OF COLOMBIA.

Mr. TRIMBLE offered the following joint resolutions, prefacing them with one or two remarks:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be and he is hereby authorized and requested to acknowledge the independence of the Republic of Colombia; and, by an interchange of accredited Ministers, place the political relations of that Government with the United States on an equal footing with those of all other independent nations.

And be it further resolved, That such of the Spanish provinces in South America as have established and are maintaining their independence of Spain, ought in like manner to be acknowledged by the United States, as free, sovereign, and independent Governments.

The resolutions were read twice, laid on the table, and ordered to be printed.

APPORTIONMENT BILL.

The House then went into the consideration of the unfinished business of yesterday, (the Apportionment bill.)

The question recurred upon the motion of Mr. RANDOLPH to insert the words "thirty thousand," as the ratio of representation.

Mr. REED, of Massachusetts, said he considered the bill now under consideration one of the most important bills that could come before Congress. It was an apportionment of power among the people for ten years. He asked the indulgence of

the House while he made some general remarks; he also asked their attention to some calculations he had made.

The first principle that should govern us, in the ratio to be fixed upon, is equality. All the people should be as equally represented as possible. This was the very foundation of a representative and free government. Arguments of accommodation, convenience, and inconvenience, should have little weight when they came in competition with equality of representation—the right and privilege of the people.

I am aware that we cannot fix upon a ratio which will be perfectly equal. I am aware that the representatives must be first apportioned among the different States. He made no remarks respecting old and new States. A new State, admitted into the Union, is entitled, by the Constitution, to all the privileges of old States. But he called the attention of the House to the operation of different ratios on small and great States. He expressed his thanks to the committee on the apportionment for the various calculations they had afforded the House, but he regretted that they had not afforded the House one other calculation. It was a calculation of the fractions of the given ratios, not among the States, but among the districts—among the people.

He had made some calculations on two ratios, the one 39,000, the other 50,000—leaving the fractions of hundreds, &c. Here he gave the result of his calculation as follows, viz: On a ratio of 50,000, it required the several numbers, placed against the States mentioned, to choose a representative—on a ratio of 39,000, the respective numbers placed under that ratio, against the States.

	Ratio of 50,000.	Ratio of 39,000
Maine - - -	59,000	42,000
New Hampshire - -	61,000	40,000
Massachusetts - -	52,000	40,000
Rhode Island - -	83,000	41,000
Connecticut - -	55,000	39,000
Vermont - - -	59,000	39,000
New York - - -	50,000	39,000
New Jersey - -	55,000	39,000
Pennsylvania - -	52,000	40,000

He observed that it was manifest, from the calculations, that a high ratio operated very unequally. If the ratio be 50,000 in New York—he named that because the largest State—50,000 inhabitants would be entitled to a representative. Whereas, in New Jersey, Connecticut, Maine, New Hampshire, and Vermont, it would require 55,000, 59,000, and 61,000. And so, he presumed, in all the other States. Such great inequality would not result from a lower ratio—he instanced 39,000.

He admitted that there must be some limitation to the number of representatives, but insisted that, as the greater number of representatives produced the greatest equality of representation, the House ought to fix on a low ratio. He felt under obligations to the gentleman from New York, who, a few days since, made honorable mention of the late convention in Massachusetts. As he had the honor to be one of its members, he would take the

liberty to remark that, as stated, the number was about 500; that good order was observed, as good order as is observed here; that the discussions were able. He differed, however, with that gentleman, as to the reason why the principal part of the amendments were not adopted by the people. It was not because the business had been done precipitately.

Here he took the liberty to suggest one other remark respecting the amendments alluded to; it is this: the principal amendments had for its object the reduction of the House of Representatives, in Massachusetts, to about 260. It was thought that number would do well.

He begged the small States to examine, and not be too much influenced by the State fractions. The decision we now make will be a precedent for the future. He trusted the large States would, when they perceived the very great inequality which resulted from a high ratio, be willing to take a low ratio, as it would not affect them. He was not in favor of striking out forty and inserting thirty; he thought that too low a number; but he hoped forty thousand would not be stricken out of the bill for the purpose of inserting a higher number.

Mr. HARDIN said there were some features in our Government of a national, and others of a confederated character. Of the former class was the operation of the public laws; of the latter was the election of the Senate. It had been a matter of some question to which class belonged the election of the representation of this House. He was inclined to believe it appertained to the latter, and the more especially as he found it coupled in the Constitution with the subject of apportioning direct taxation among the States, which was undoubtedly of the latter description. Indeed, he considered the question to have been decided as long ago as 1792; for which he referred to the Journal of the House, and read from that Journal President Washington's Message, as follows:

UNITED STATES, April 5, 1792.

Gentlemen of the House of Representatives:

I have maturely considered the act passed by the two Houses, entitled "An act for an apportionment of representatives among the several States, according to the first enumeration;" and I return it to your House, wherein it originated, with the following objections:

First. The Constitution has prescribed that representatives shall be apportioned among the several States, according to their respective numbers; and there is no one proportion or divisor which, applied to the respective numbers of the States, will yield the number and allotment of representatives proposed by the bill.

Second. The Constitution has also provided that the number of representatives shall not exceed one for every thirty thousand; which restriction is, by the context, and by fair and obvious construction, to be applied to the separate and respective numbers of the States; and the bill has allotted to eight of the States more than one for every thirty thousand.

G. WASHINGTON.

Mr. HARDIN remarked that the practice of the

JANUARY, 1822.

Apportionment Bill.

H. OF R.

Government had ever since corresponded with that decision. So much for the observations of the gentleman from Massachusetts, (Mr. REED.)

In apportioning the representation, gentlemen had expressed great diversity of opinion. He would agree that the representation ought to be sufficiently large as to bring into the House the wishes, the feelings, and the interests of the people, and at the same time to give it sufficient weight and authority to check and counterpoise any overbearing influence of the other branch of the Government. Yet there were rules of convenience and inconvenience that ought not to be overlooked. There was daily a practical lesson, that there were members enough in this House to give information of the interests and concerns of the various parts of the Union. He did not wish that the number should be so increased as to become unwieldy and unmanageable. When that was the case, the public business was necessarily protracted; and even the item of expense was not to be overlooked. But he thought some convenient number, between one hundred and eighty and two hundred and twenty, would be proper, and he was not very solicitous respecting the precise limit, if those extremes were not passed. One argument, on which much reliance seemed to have been placed, was, that a large number would fill the House in such a manner that the corrupt stream of Executive influence could not flow into it; and that the numbers in the House should be so great that, to corrupt a majority would more than exhaust the means of the Executive. For his part, he should be very happy to be assured that there was no corrupt stream flowing out of it. But he did not wish to legislate on this principle. He was unwilling to allow force to any argument that was predicated on the position, that the members of that body were such villains as to be capable of being corrupted; and the resolutions that had both formerly and recently been introduced in that House, purporting to guard against such influence, by rendering members incapable of holding offices until a period of probation after their Congressional term had elapsed, had never received his sanction or his vote. Nor did he feel alarmed by the apprehensions that seemed to afflict the gentleman from Pennsylvania (Mr. BALDWIN) that it was necessary to fix the ratio low, that each State might have two members in the House of Representatives, because, if ever Congress should be called on to elect a President, it would render it more difficult for the candidates for that office to buy up the representation from the small States. If a man will go into a graveyard to see spirits, he can always discern them.

There is no difficulty in conjuring up imaginary dangers, where many in reality exist. It is sometimes a very convenient way of reasoning to carry a point; for he (Mr. H.) had known the period, when, if it was desired to keep up a standing army, an alarm could be sounded of invasion by the Emperor of Russia from beyond the Cape of Good Hope. The House had heard much exposition of late on the subject of first principles; but it was somewhat remarkable that they were al-

ways exactly suited to the fractions of that State whose member urged them. But there was much sympathy and feeling for the magnanimous State of Rhode Island, and a gentleman from Massachusetts (Mr. BAYLIES) yesterday informed us that that State paid one-fifth of the commercial revenue to the United States. He (Mr. H.) had always understood, however, and he believed it was pretty generally understood, that imposts were paid by the consumers. And would it be pretended that the State of Rhode Island consumed one-fifth of these imported articles? If so, they must wear very fine coats, and drink tea and coffee most prodigiously! The smaller States should recollect that they have an equal power in the Senate, and that this was a concession in their favor by the larger States, when the Constitution was formed in the spirit of compromise. They could certainly have but little to complain of to be represented according to numbers in this House, if, in a co-ordinate branch of the Government, a State of eighty-three thousand inhabitants has an equal vote with a State having one million three hundred thousand. By lowering the ratio you add nothing to the weight of representation from the small States, because in the same proportion do you increase the representation from the larger States. Power is comparative; if all were Sampsons, no one would be distinguished for strength. If all were wealthy, there would be no rich men. And if all were orators of the first class, the great orator of Baltimore would not be spoken of. He, Mr. H., would be glad to accommodate the State of Rhode Island, but he would not consent to do it at the expense of filling the House with an inconvenient number, and the old States should remember that their population will probably remain nearly stationary for the next ten years. Yet the new States may perhaps increase, some at least fourfold, before the next census, and they will be bound to abide until that time by the apportionment which shall now be made.

Mr. WOOD could not perceive any reasonable ground of jealousy or complaint on the part of the small States. The difficulties that now seemed to stand in the way of an immediate decision of the question were, first, a sympathy for the small States, and, secondly, a reluctance on the part of the old stationary States to part with any portion of their comparative power. In the outset of the confederated Government, it was an objection strongly urged to the adoption of the Constitution, that the small States had an over proportion of weight or influence. But the question was settled upon principles of mutual concession. It was the price of the Union, and he did not wish to disturb it. But he really thought those States ought now to be willing to approach something that might look like equality. In the electoral college they have an unquestionable disproportion; and should the election of a Chief Magistrate ever devolve, unfortunately, on this body, the disproportion would be greatly increased. In that case, the smallest State would not only be entitled to an equal vote with the largest, but this further result might ensue: the representatives, for in-

stance, of the great States of Pennsylvania, Virginia, or New York, might be divided and their vote neutralized, whereas the States of Rhode Island and Delaware, having but a single vote each, could not be divided, and thereby outweigh the most populous State in the Union. Mr. W. contended that the increase of numbers, instead of extending the knowledge of public business, would have a direct tendency to throw the management of business into a few hands and to furnish the rest with an excuse for indolence, as was fully exemplified in the practice of the British Parliament. He had much reliance on the sufficiency of self government. However, conscience and fame were more powerful restraints from misconduct than an extension of numbers. The gentleman from Virginia (Mr. RANDOLPH) had eulogized the State of Delaware, and the gentleman from Massachusetts (Mr. BAYLIES) had lauded the State of Rhode Island. He (Mr. W.) was not disposed to detract from any measure of praise to which those States were entitled. But it ought not to be lost sight of that numbers only are the Constitutional basis of apportionment. However great their wealth; however meritorious their deeds of prowess, it is not competent to recognise them in this bill. Persons and the rights of persons only are now to be taken into view. It had been said that this House was the house of the people, and that here their rights are deposited. My rights, said Mr. W., are deposited in another government. The people of the United States have partitioned their sovereignty. All the original, general, and sweeping powers, abide with the States, and the National Government is a Government of limited powers. All that is not given is reserved. It has no dominion over personal rights. It cannot interfere between man and man. The State governments, and they alone, are adequate to the protection of private rights. If my rights are invaded by State authority, can the strong arm of the General Government protect me? No, it is nerveless. The supreme authority resides in the State government. It acts by its own laws, and is its own arbiter. There was therefore no danger to the rights or liberties of the people, from any fancied powers of the General Government. Mr. W. also adverted to the expediency of a due limitation of the numbers, for the proper despatch of public business, and for the weight of responsibility they might feel. There was a further objection to a great increase of numbers in the House. It deprived men of the command of their physical powers. It was unquestionably very difficult to hear in this Hall—and, if such is the fact now, what would be the case when it should be extended? And if persons cannot be heard, to what purpose is discussion? Why do we venerate years, and regard experience? Because they are capable of instructing us. But it is known that, as judgment ripens, the corporeal powers, and particularly the faculty of hearing, is apt to decay. The effect, then, would be, if this assembly is increased, to exclude from it every man of age and experience. Mr. W. would agree that it was impossible to fix a precise ratio; but,

before he sat down, he could not omit calling the attention of the House to the 58th number of the *Federalist*, in which Mr. Madison expressly admits the advantage which a large ratio would give to the small States, and endeavors to reconcile the large States to the concession. There are other and detached considerations on the subject which Mr. W. would not now detain the House by adverting to; and although he felt no peculiar interest or feeling in the subject, yet he could not forbear to express his hope that a small ratio would not be adopted.

Mr. REED, of Massachusetts, said the gentleman from Kentucky (Mr. HARDIN) had wholly misunderstood him. He was aware, and had stated, that the representatives must be first apportioned among the different States. In reply to the gentleman from New York, (Mr. WOOD,) who last addressed the House, he disclaimed all hostility to the great States. On the contrary, his good opinion of those States, and of their representatives, induced him to believe that they would at once consent to fix the ratio on a low number, when they perceived the great inequality which resulted from a high ratio. He trusted he indulged no improper sympathy for the small States, as intimated by the gentleman. The State he came from, it would be recollected, was neither a great State nor a small State.

The gentleman complains of the undue influence of the small States in the Senate. He complains of the Constitution. It is to be remembered we are not now forming a Constitution; and, in fixing the ratio of representation, it would be highly improper to be influenced at all by such considerations. He agreed that numbers alone should fix the ratio. But he did not agree that, whether the ratio was high or low, whether thirty-nine thousand or fifty thousand were entitled to send a representative, it would make no relative difference. And, as the principal question between him and the gentleman (Mr. WOOD) was a mathematical one, he trusted it could be correctly decided. Here Mr. R. again referred to his calculations before made, and explained them.

Mr. WOOD remarked that it was impossible to get rid of fractions, and it was in vain to complain of incurable evils. Fractions do not increase with the ratio, nor do they fall wholly on the small States.

Mr. GORHAM here made some remarks, which the reporter was prevented, by accident, from hearing and reporting.

Mr. BALDWIN rose, in consequence of the imputation to him of disrespect to the House, in certain remarks which he made yesterday. He had been for four sessions a member of this House, he said. In the course of that time he had heard a great deal said of Executive influence, and he had never heard of its being disrespectful to the members. In what he had said yesterday, Mr. B. remarked, he had not gone so far as that. He had not expressed that sentiment because he did not feel it. He now asked of the gentleman from Virginia, who had been a member of this House when the election of President once fell upon it, whether

JANUARY, 1822.

Apportionment Bill.

H. OF R.

he ever wished to see another election here? Did that election, Mr. B. asked, reflect any credit on this House? On this subject, Mr. B. said, the Constitution itself said more than he had said yesterday. "No Senator or Representative," says the Constitution, "shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office." Why was this provision inserted in the Constitution, if not to guard against the liability to corruption? I have always thought, said Mr. B., that we have no right to come into this House, and with the Pharisee, thank God that we are not as other men. We are like other men, and the Constitution has thus spoken of all who should happen to be placed in the situation in which we now are. The Constitution does not say, in so many words, that we are rogues and scoundrels, but it guards us against what *may* happen. No representative in Congress can hold an office. The Constitution has excluded us, and us alone, from being Electors of President and Vice President of the United States. Mr. B. begged gentlemen not to be so sensitive as to the character of this House. Let them look for a moment to their own arguments—to the argument that, if this body was made more numerous, an aristocracy would be created, and that the business would be done by a few leading members. Mr. B. asked whether observations of this sort were drawn by gentlemen from their own experience. He was now addressing himself to a body three times as numerous as it was thought necessary for this body to be when first organized, and he asked of the House this question: Is there a man in it who says to himself, I am looking to this or that great man about the House, and I give my conscience into his keeping? Was there such a man in this House? If so, he had better not have a seat in it. And if, said Mr. B., we do not think so, each of himself, what right have we to say or think it of one another? I ask the gentleman from New York, is he willing to say, or have we a right to say, we are so wise, so industrious, there is no danger from us; but those who come after us are likely to be worse, and less to be trusted? Up to this day, he said, experience showed that no practical evil had resulted from following the true and original principle of bringing the people as near to the Representative as can conveniently be done. If none of us could be suspected of being accessible to the considerations of personal interest, &c., even hypothetically, it was the best argument which could be produced to show that no danger would ensue from representation keeping pace with the population of the country.

What, Mr. B. asked, is the principle of representation? It is the strong line of demarcation between our Republic and monarchies. Why have the people of this country more rights than any others? Because, here, every thing was done by the representatives of the people themselves. Yet

it was now proposed to throw the representative as far as you can from the people—to violate essentially the representative principle—to correct the imaginary difficulty that a numerous representative body is not qualified to do business. It is qualified, said he, to do what the Constitution intended it to do—to represent the people, in which representation, and not in what gentlemen choose to tell the people, lay the strength of the Government.

A great many things had been said about great and small States—Mr. B. was sorry they had been said, and he thought that gentlemen, without being aware of it, had fallen a little into the spirit which they had imputed to him. Much had also been said of such a number suiting such a State, and such a one another. What! said Mr. B. are we fixing a ratio of representation to suit States? Are we acting on the sacred principle of representation, and does each member look at the numbers of each State, and vote accordingly? Mr. B. did not say that this was wrong; gentlemen had a right to do as they chose; but he mentioned it to show that men are governed by the same principle here, as elsewhere—that, in this age, we are no better than the men who have gone before us, and no better than those who are to come after us. For himself, he said, he cared nothing about the bearing of this ratio. He should misrepresent the State of which he was a representative, should he say that one member more or less would be an object to her: and whenever the time came that her influence in the Government depended on the number of her members here, he wished her not to have any. Her influence here was, and he hoped it would continue to be, that of a moral character—of her institutions at home, and of the minds of her representatives here, &c. Mr. B. concluded by a few remarks, disclaiming any apprehension, on the part of the great States, of danger from the increase of numbers of the small States, &c.

Mr. A. SMYTH was of opinion that the representation was sufficiently numerous already. The rule of limitation, he thought, should be whether the members could hear each other, so as to do business together. If the safety of the people really required an increase of the number, he should not think that the additional expense was a fair argument against it—but, if it did not, it was an item worth consideration. By the ratio proposed, there would be an increase of annual expense to the amount of \$300,000; and if no real necessity existed for the expenditure, it was a sum that it would be proper to save. The more the number was increased, the more would members be disposed to leave their seats to become postmasters, registers in land offices, receivers of public moneys, &c. It was also to be observed, that, in a large body, distinguished men acquire more influence than in a body more select. In Virginia, even if it is allowed to retain its present number, yet such have been the variations of its population, that it would be necessary to district the State again, and he should be opposed to any number below 40,000. He was willing for 42 or 46,000; and he thought there were many good reasons in favor of 47,000.

H. OF R.

Apportionment Bill.

JANUARY, 1822.

It leaves the least general fraction. He thought the small States had no reason to complain; for it was but reasonable that the large States should have a proportionate share of influence in the Government.

The question was then taken on Mr. RANDOLPH's motion, and lost without a division.

Mr. CONDUCT moved for 37,000, which was also lost without a division.

Mr. CAMPBELL, of Ohio, moved for 41,000.

Mr. TUCKER, of Virginia, wished Mr. CAMPBELL to withdraw his motion, that the question might be taken on 38,000, but Mr. C. did not assent to the proposition; and some further discussion ensued on the propriety of recommitting the bill, in which discussion Messrs. WILLIAMS, of North Carolina, SMITH, of Maryland, CAMPBELL, and LOWNDES, took part.

Mr. COCKE having required the yeas and nays on the ratio of 41,000, and the question being about to be taken—

Mr. RANDOLPH rose to say, in a single word, that he could not consent to vote for any number which would take a representative from the State, one of whose representatives he was. There might appear to be an inconsistency in his having voted yesterday to strike out 40,000 and insert 39,000; but, Mr. R. said, that vote was merely an expression of preference of thirty-nine to forty thousand. He could not, he said, vote for any number which should go to shear one single beam from the State of Virginia. If he were certain that doing so would increase her relative weight in the Union, he was not sure that he would do it. He knew the time must come when this thing would happen; but sufficient for the day is the evil thereof. He was not disposed to anticipate it—he was not disposed to rush upon it. He could not give his consent to any proposition, whereby the ancient State of Virginia should be deprived of one tittle of her representation on this floor. He said thus much, because he felt himself alluded to, he thought, by one of his colleagues over the way.

The question was then taken on Mr. CAMPBELL's motion, and negatived—yeas 49, nays 126, as follows:

YEAS—Messrs. Allen of Tennessee, Barber of Ohio, Bateman, Blackledge, Blair, Borland, Brown, Buchanan, Cambreleng, Campbell of New York, Campbell of Ohio, Colden, Conkling, Conner, Darlington, Dickinson, Durfee, Eddy, Gebhard, Gist, Gross, Hawks, Hill, Holcombe, Hubbard, J. S. Johnston, Jones of Tennessee, Kirkland, Litchfield, McCarty, Matlack, Metcalfe, Nelson of Virginia, Patterson of New York, Patterson of Pennsylvania, Pierson, Pitcher, Rochester, Rogers, Ross, Ruggles, Sanders, Scott, Spencer, Sterling of New York, Vance, Van Wyck, Walworth, and Woodcock.

NAYS—Messrs. Abbot, Alexander, Allen of Massachusetts, Archer, Baldwin, Ball, Barber of Connecticut, Barstow, Bassett, Baylies, Bigelow, Burrows, Burton, Butler, Cannon, Cassedy, Causden, Chambers, Cocke, Conduct, Cook, Crafts, Crudup, Cushman, Cuthbert, Dane, Denison, Dwight, Edwards of Connecticut, Edwards of North Carolina, Eustis, Farrelly, Findlay, Floyd, Fuller, Garnett, Gilmer, Gorham, Hall, Hardin, Harvey, Hemphill, Hendricks,

Herrick, Hobart, Hooks, Jackson, F. Johnson, J. T. Johnson, Jones of Virginia, Kent, Keyes, Lathrop, Leftwich, Lincoln, Little, Long, Lowndes, McCoy, McDuffie, McNeill, McSherry, Mallary, Matson, Matlocks, Mercer, Milnor, Mitchell of Pennsylvania, Montgomery, Moore of Alabama, Moore of Pennsylvania, Moore of Virginia, Morgan, Murray, Neale, Nelson of Massachusetts, Nelson of Maryland, New, Newton, Overstreet, Phillips, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Randolph, Rankin, Reed of Massachusetts, Reid of Georgia, Rhea, Rich, Russ, Russell, Sawyer, Sergeant, Sloan, S. Smith, Arthur Smith, W. Smith, Alexander Smyth, J. S. Smith, Sterling of Connecticut, Stevenson, Stewart, Stoddard, Swan, Swearingen, Tatnall, Taylor, Thompson, Tod, Tracy, Tucker of South Carolina, Tucker of Virginia, Upham, Walker, Whipple, White, Whitman, Williams of North Carolina, Williams of Virginia, Williamson, Wood, Woodson, Worman, and Wright.

Mr. NELSON, of Maryland, moved to fill the blank with 35,000. He remarked that he would not occupy the time, nor trespass upon the patience of the House, by discussing the question; yet he could not avoid observing that he was opposed to increasing the present ratio. He thought the people were entitled not only to an adequate, but to a full representation. The privilege of representation was the privilege of the great body of the people; and it was improper so to increase the ratio, so as to make the constituents strangers to those in whom they were to repose confidence.

The question was then taken on Mr. N.'s motion, and lost without a division.

Mr. KENT hoped the bill would be engrossed at 40,000, as it stood at present, and read a third time.

Mr. FARRELLY moved to fill the blank with 38,000, on which motion Mr. BALL called for the yeas and nays, which were thereupon ordered.

Mr. EDWARDS, of Connecticut, was unwilling to take from any of the States the share of representation which they now enjoyed; and, with him, that consideration would form a primary object in fixing the apportionment. A second object would be to guard the rights of the State which he had the honor in part to represent. Mr. E. adverted to the States which would be affected by lopping off a part of their representation, and thought that to diminish it was going abreast of that spirit of concession and amity that governed those by whom the national compact was made. The gentleman from Georgia (Mr. CUTHEERT) had apprehended danger to the continuance of the Union from an increase of the number of representatives. He, Mr. E., thought there was a much greater danger to the integrity of the Union from another quarter. If the old States lost their relative weight in the Union—if they were rooted out and swallowed up by the new branches of the political family—and deprived of the fair inheritance which our fathers achieved—was it to be expected that they would sit down contented under the shade of their own insignificance? The State of Connecticut has seven representatives. If you take from her one, will she not feel it, and feel it, too, as a manifest token of political decline? May she not look for-

FEBRUARY, 1822.

Proceedings.

H. OF R.

ward, and that, too, not without reason, when she, too, like Delaware and Rhode Island, may be reduced to a unit in the representation to the National Legislature? And he begged those gentlemen from Maine, Massachusetts, Maryland, South Carolina, &c., who might now sustain their present number, to look forward a few years, and reflect with what complacency they could contemplate the dismemberment of their representation—for they might be assured that their turn also would ere long come, if they now submitted to the principle of lopping off the members of the other States. Far less odious and repugnant would it be if the old States had never been allowed the share of representation they had hitherto enjoyed. In individuals, as in States, there was no sensation more unpleasant than that which indicates a decay, either of faculties or influence.

We have been told that, on this subject, we ought not to be governed by arithmetical calculations, but by general principles, and every one who has spoken on this subject has professed himself more or less to be governed by these principles. Yet it appears that the particular number advocated in almost every instance is precisely that number which, upon arithmetical calculation, best suits the particular section of country from which it is advocated. Such had been the case when the number of 42,000 was advocated the other day by the gentleman from North Carolina, (Mr. SANDERS.) [Mr. S. rose to explain, and observed, that the gentleman from Connecticut would find by adverting to the yeas and nays that he, Mr. S., had voted for 45,000, which was not a number favorable to North Carolina.] Mr. E. continued, and remarked, that he by no means imputed any improper motive to that gentleman, yet he could not fail to observe the remarkable coincidence. If 38,000 were adopted, no State but Delaware would be deprived of a representative, and the aggregate of fractions would be less with this divisor than any other except 36,000 and 55,000; nor would it increase the number of members beyond 224, which he thought was a number convenient for the transaction of business, but would soothe and harmonize the feelings, and represent the interest and wishes of the various portions of the Union.

The question was then taken, and decided in the negative—yeas 50, nays 126, as follows:

YEAS—Messrs. Alexander, Allen of Massachusetts, Archer, Ball, Barber of Connecticut, Bassett, Baylies, Bayly, Bigelow, Burrows, Cambreleng, Cannon, Casedy, Colden, Conduct, Crafts, Dickinson, Durfee, Eddy, Edwards of Connecticut, Farrelly, Floyd, Garnett, Herrick, Holcombe, J. S. Johnston, Jones of Virginia, Lathrop, McCarty, Mattocks, Milnor, Moore of Alabama, Moore of Virginia, Nelson of Maryland, Nelson of Virginia, Patterson of New York, Pitcher, Randolph, Reed of Massachusetts, Rochester, Ross, Russ, Sterling of Connecticut, Sterling of New York, Stevenson, Stoddard, Swearingen, Tucker of Virginia, White, and Woodcock.

NAYS—Messrs. Abbot, Allen of Tennessee, Baldwin, Barber of Ohio, Barstow, Bateman, Blackledge, Blair, Borland, Breckenridge, Brown, Buchanan, Burton, Butler, Campbell of New York, Campbell of Ohio, Causden, Chambers, Cocke, Conkling, Conner, Cook,

Crudup, Cushman, Cuthbert, Dane, Darlington, Denison, Dwight, Edwards of North Carolina, Eustis, Findlay, Fuller, Gebhard, Gilmer, Gist, Gorham, Gross, Hall, Hardin, Harvey, Hawks, Hemphill, Hendricks, Hill, Hobart, Hooks, Hubbard, Jackson, F. Johnson, J. T. Johnson, Jones of Tennessee, Kent, Keyes, Kirkland, Leftwich, Lincoln, Litchfield, Little, Long, Lowndes, McCoy, McNeill, McSherry, Mallary, Matlack, Matson, Mercer, Metcalfe, Mitchell of Pennsylvania, Mitchell of South Carolina, Montgomery, Moore of Pennsylvania, Morgan, Murray, Neale, Nelson of Massachusetts, Newton, Overstreet, Patterson of Pennsylvania, Phillips, Pierson, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Rankin, Reid of Georgia, Rhea, Rich, Rogers, Ruggles, Russell, Sanders, Sawyer, Scott, Sergeant, Sloan, S. Smith, Arthur Smith, W. Smith, Alexander Smyth, J. S. Smith, Spencer, Stewart, Swan, Tatnall, Taylor, Thompson, Tod, Tracy, Trimble, Tucker of South Carolina, Upham, Vance, Van Wyck, Walker, Walworth, Whipple, Whitman, Williams of North Carolina, Williams of Virginia, Williamson, Wood, Woodson, Worman, and Wright.

Mr. Ross then moved to recommit the bill to a committee, with instructions to amend the same by striking out forty thousand and inserting forty-two thousand, (one of the numbers heretofore negated.)

Mr. TAYLOR moved to amend the instruction by striking out the word "two," and inserting the word "seven," so as to make the ratio forty-seven thousand.

Thus situated was the business, when the House adjourned.

FRIDAY, February 1.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to whom was referred the petitions of James Crawford and others, reported a bill for the relief of certain persons who have paid duties on certain goods imported into Castine; which was read twice, and committed to a Committee of the Whole.

Mr. SMITH, from the same committee, to which was referred the bill from the Senate entitled "An act authorizing the transfer of certain certificates of the funded debt of the United States," reported the same without amendment, and the bill was laid on the table.

Mr. SERGEANT, from the Committee on the Judiciary, reported a bill to provide for the sale of lands conveyed to the United States, and for sales under executions at the suit of the United States; which was read twice, and committed to a Committee of the Whole.

Mr. SERGEANT, from the same committee, also reported a bill to limit the compensations of marshals in certain cases, and for other purposes; which was read twice, and committed to the Committee of the whole House last appointed.

Mr. CAMPBELL, from the Committee on Private Land Claims, to which was referred the bill from the Senate entitled "An act for the relief of Richard Matson," reported the same without amendment, and the bill was committed to the Committee of the Whole.

H. OF R.

Apportionment Bill.

FEBRUARY, 1822.

Mr. EUSTIS, from the Committee on Military Affairs, to whom was referred the petition of George Hickman, reported a bill for the relief of Reuben Hickman and Fielding Hickman; which was read twice, and committed to a Committee of the whole House on Monday next.

Mr. COLDEN submitted the following resolution, viz:

Resolved, That the Secretary of War be requested to report to this House any proceedings of a court-martial which may be in his Department, or which he may have in his power, relative to a fine imposed on John Dodge, for not serving in the militia of the State of New York.

The House took up and proceeded to consider the report made by the Committee of Claims, this day, on the petition of Nathaniel Childers. Whereupon, it was ordered that the said report be committed to a Committee of the Whole to-morrow.

A message from the Senate informed the House that the Senate have passed a bill entitled "An act further to establish the compensation of officers of the customs, and to alter certain collection districts, and for other purposes;" in which they ask the concurrence of this House.

The bill was read twice, and referred to the Committee on Commerce.

The SPEAKER laid before the House a communication from the Navy Department, transmitting a statement of money drawn by that Department from the Treasury from the 1st October, 1820, to the 30th September last; which was referred to the Committee of Ways and Means, and ordered to be printed.

The SPEAKER also laid before the House a communication from the Treasury Department, transmitting, according to a resolution of the House, a statement of payments to weighers, inspectors, &c., for several years past; which was laid on the table, and ordered to be printed.

The SPEAKER further presented another communication from the Treasury Department, transmitting a statement of payments from that office on account of miscellaneous expenses, of contracts made, &c., &c., during the past year; which was committed to the Committee of Commerce.

The report of the Committee of Claims adverse to the petition of Robert M. Elliot, was taken up and agreed to.

COMPENSATION TO ATTORNEY GENERAL.

The resolution laid on the table yesterday by Mr. COCKE, calling for information on the subject of extra compensation to the Attorney General, was called up and considered.

Mr. COCKE observed that it would probably be expected of him to assign some reasons for having introduced the resolution. He thought it was not required of him to show that, when an officer receives a salary from the United States, he is entitled to no further compensation, unless perquisites are contemplated by the law that fixes it. On that point, however, he should reserve his remarks for another occasion, should it become necessary. Mr. C. had been informed that the Attorney General

had received four hundred dollars as a fee in a case that arose and was decided within the District of Columbia. He would not say that that officer was not entitled to the fee he had received; but he would say that, if he was so entitled, it was high time that the law was revised. It had been stated, with what correctness he would not undertake to decide, that there were other cases of a similar nature; and at all events he thought it was a subject on which the House ought to be possessed of further information.

Mr. WRIGHT, of Maryland, said he was sorry to see any proceeding of this House which might have a tendency, directly or indirectly, to implicate the integrity of the Administration. He wished them to stand, as Cæsar did his wife, free from suspicion. Why, said he, resort to this method of getting the information required? Is it withheld? I have no doubt that the President, in directing any extra compensation to the Attorney General beyond his salary, did it correctly for services extra of his official duties as Attorney General. We in Maryland know that he was lately employed to aid the District Attorney in the great case of the prosecution of the violators of the bank laws of the United States; and well know the very distinguished manner he performed that duty, in the opinion of the court. Sir, it could never be considered the duty of the Attorney General to attend the district courts of the several States; it would be physically impossible. The President is to take care that the laws be faithfully executed. If the President had left this case to the care of the District Attorney, when several of the most distinguished members of the bar had been employed in their defence, what would have been the feelings of the friends to the faithful administration of the laws? Would they not justly charge him with neglect? Sir, in this case I have no doubt large fees have been paid by the defendants to their counsels, and would the honest representatives of the American people wish the Attorney General to perform this extra service, without a just compensation? I presume not. This has been the practice of every administration. Even in the case of the Attorney General additional counsel have been employed. I hope the gentleman will suffer his resolution to lie on the table till Monday, when I pledge myself to give him all the information he requires on the subject, as I am perfectly satisfied there is no disposition in any department of the Government to keep from the representatives of the people any information they wish or ought to have.

Mr. COCKE acquiesced in the proposition of the gentleman from Maryland, and hoped that on Monday the House would receive the important information to which the gentleman had referred.

The resolution was thereupon laid on the table.

APPORTIONMENT BILL.

The House resumed the unfinished business of yesterday, (the Apportionment bill,) Mr. ROSS's motion to recommit the same with instructions to strike out 40,000 and insert 42,000, and Mr. TAYLOR's motion to amend those instructions by in-

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

serting the word *seven* in lieu of the word *two*, being under consideration—

A question of order arose on the propriety of receiving for consideration the proposed amendment, in which Messrs. RANDOLPH, REID, SMITH, of Maryland, WRIGHT, EDWARDS, of North Carolina, HERRICK, and ROSS, took part; when

The SPEAKER decided that the motion of Mr. TAYLOR was in order; whereupon

Mr. TAYLOR rose and observed that, by voting in favor of the motion, no gentleman would be committed by that vote, for its effect was only as between that number and 42,000. Those who voted in favor of 47,000 would only express a preference for that number to the other. He thought the ratio he had proposed would give a representation sufficiently numerous, and avoid many evils which a lesser ratio would produce. He had been induced the other day to substitute 45,000 in lieu of 47,000, in the hope and expectation that that ratio would prevail and settle the question; but, being in favor of the number now in question, he had renewed the proposition.

Mr. SERGEANT expressed his views at length, in relation to the subject, but the first of his remarks were not heard by the reporter. In allusion to the unrepresented fractions, he said it was not a material consideration with the large States. But in respect to the small States, it became a question of magnitude. It was liable to have the great effect of cutting them off from one-half of their representation—a result that nothing could justify but the pressure of a sort of necessity. What then was the imperious political necessity that required a ratio of 42,000, which would deprive Rhode Island of one-half of its representation, rather than 40,000 or 41,000, which would give that State the share in our national councils that it now possesses? What could be more unkind—what more invidious? and what was the pressure of principle that interposed and required this sacrifice? He had, at times during the discussion, entertained doubts whether it was proper to deprive even Delaware of one of its two members; but he thought there was a difference between that State and the State of Rhode Island:

With respect to the former, the House could not give it two Representatives, unless we went down to the ratio of 35,000, which would increase the House of Representatives to two hundred and forty-three members—and it would be observed that Delaware had never had two Representatives until the third census—whereas Rhode Island had always, from the beginning of the Government, possessed the number which it now sends, and has a population that will sustain two members with a very moderate increase of representation in the House. Mr. S. adverted to the successive ratios that had been adopted since the formation of the Government, and admitted that there should be proper limits set to the number. Forty-two thousand gave a larger aggregate unrepresented fraction than 40,000, which was an argument against it; but he did not regard aggregate fractions so important, as a large fraction that bears hard upon an individual State. The injury to Rhode Is-

land by adopting 42,000 was palpable. We come to her next door—within a single thousand—and then shut it against one of her Representatives. This he thought could be defended only on the principle of some strong necessity, that had not hitherto been shown to exist.

Mr. S. could discover no analogy between our Constitution and that of the British Parliament, which had been so often referred to in the course of the debate. The members of this House were the representatives of the people, and to the people were they responsible for their acts. But in the British Parliament the members are the representatives, not of the people, but of classes, of boroughs, of gentlemen, of the universities, &c. Here a majority is requisite to pass a law; there forty members make a quorum, and seven or eight often do the ordinary business of the House. Their divisions rarely exceed one hundred, except upon some great questions of national concern, or in which the conduct of the ministry is involved. There the Parliament is divided into two great parties, who have their regular file leaders. After the death of Mr. Fox, Mr. Ponsonby was regularly elected by the party to succeed him, and, after his decease, Mr. Tierney was elected to supply his place. Under these leaders, said Mr. S., the parties move on in solid columns. A member lately died at an advanced age, who was, for a long period, a member of Parliament, and of whom it was said that he was never present at a debate, nor absent at a division. Mr. S. would speak nothing in censure; but he would ask, was it desirable to assimilate our Government to that, or could we draw wisdom from such examples? Mr. S. was unwilling to adopt a very small ratio; but he thought, within the reasonable range which the House seemed inclined to take, it was but fair and equitable that if one member of the political family was in danger of being excluded, the line should be extended to embrace it, and, were it practicable, he should be very desirous of including Delaware also.

Mr. LOWMEYER here made a few observations. The first sentiment which the Reporter distinctly caught, was that of extreme unwillingness that either Delaware or Rhode Island should be left with but one member on the floor. He did not say that he should make a proposition such as he was about to suggest; but he said he had no sort of doubt that the Constitution not only permits but requires that both those States should have two members on this floor. He did not feel himself a zealot on the subject before the House, either on one side or the other. He did not think that the nation would be ruined by the House being so organized as to consist of two hundred or of three hundred members. The general business of the House would still go on. On great questions involving the national interest, the decisions of the House might perhaps be better from a numerous body than from a limited one; on the other, there was a large proportion of the business of the House which could be better done by a small number than by a larger one, &c. Mr. L. then proceeded to state his view of a proposition which

the House might adopt, should it think proper, though he did not mean to move it, believing that such a motion would be useless. He clearly thought that the Constitution, in describing as the rule of representation, that it shall be apportioned among the States according to numbers, did make it the duty of the House to make such an apportionment as would correspond most nearly with the numbers, as ascertained by the census.

If there be any rule by which representatives can be made to represent, as nearly as can be, the whole number of population, that rule it became the duty of the House to adopt—and much more did it become their duty when, by an application of it, scarcely any State would be left with a single representative only. The act passed by both Houses of Congress in 1792, and rejected by the President of the United States, with a slight modification for obviating the Constitutional objection to it, would produce advantages which no other plan could produce. It would enable the House distinctly to determine what was the number which convenience would admit, and which, being determined upon, would enable them to reconcile objects otherwise incompatible, namely, to retain the present representations of the small States, and at the same time make the whole number of representatives pretty nearly what they wished. The plan then would be nearly this: Determining on the number of representatives, the whole general population in representative numbers should be divided by this number—thus ascertaining the ratio of representation, and the number of representatives which each State would have, and then what would be the aggregate of the whole. The complementary number—the number of members which should then be deficient of that first fixed upon, should then be divided among the States having the least representation in proportion to their respective numbers.

The bill of 1792 proposed that the fractions should be distributed among the States, giving an additional Representative to each State having the largest fraction, until the necessary number was completed. It so happened in that case, that the State which had the largest fraction, had also the largest number of Representatives. This was obviously not a just disposition of the remaining numbers. For, suppose Rhode Island to have a fraction of twenty thousand left, and New York or Pennsylvania one of thirty thousand, the member from the small State represents the largest district in the Union, and the disproportion between it and the large State would be increased by the giving an additional member to the large State. By giving one additional member, on the other hand, to each of the small States, an approximation would be made much more near to a true rule of apportionment than could be attained in any other way; for the consequence of such a rule of apportionment would be, that a very few thousand less would be unrepresented in any one State than in any other.

Mr. L. made some further remarks, but they were confined to the question as to the best mode

of ascertaining finally the sense of the House as to what ought to be the ratio of apportionment.

Mr. TRIMBLE suggested 41,500 as the number which would just leave Rhode Island where she is, and would obviate the objection which had been made on her account to the ratio of 42,000. If by any process of calculation he could see how Delaware could also be left with two Representatives, he should be much pleased at it; but he did not see how that could be effected.

Mr. Cook was opposed to 42,000, and to any ratio above 40,000. He believed that every class of the community should be represented in this House, and as the ratio is increased, that chance is diminished. If we looked north of the Capitol, he observed, the old States in that direction would lose eight members—whereas, if we looked south, the States in that quarter would lose but four. This was unequal. It diminished the representation in one section of the country at the expense of another. He deprecated local distinctions and partial considerations, and thought it highly expedient, not only in respect to Rhode Island, but to others of the old States, that there should be a large representation. It brought together gentlemen from various parts of the Union, rendered them less strangers to each other, diffused a spirit of national feeling, and had a powerful effect to harmonize, by association, the different parts of this widely extended empire.

Mr. BUCHANAN required a division of the question, so as to take it first on striking out the ratio (40,000) which now stands in the bill.

Mr. JOHNSTON, of Louisiana, hoped the gentleman from Ohio (Mr. Ross) would extricate the House from the difficulty in which they seemed to be involved, by withdrawing his motion, to give him, Mr. J., an opportunity to move for the ratio of 41,500.

Mr. Ross consented, and withdrew his proposition; whereupon

Mr. JOHNSTON moved to insert, in lieu of 40,000, the number of 41,500.

Mr. BUTLER moved the previous question, which was refused by the House.

Mr. BALDWIN then renewed the motion to recommit the bill to a select committee, with the avowed object of attempting to adopt a method of representing the fractions of the respective States in conformity to a suggestion of the gentleman from South Carolina, (Mr. LOWNDES.)

Mr. WALWORTH opposed the motion, and, the question being taken, the motion was lost.

Mr. SMITH, of Maryland, opposed the motion. He did not expect that gentlemen would vote, on this subject, upon any principles of comity, or on any other principles than those which regarded the interests of the States they respectively represented. Yet he could not forbear to notice it, as a matter of regret, that, when gentlemen had been induced to yield for the purpose of benefiting the States of Rhode Island and Louisiana, that those States should manifest an inclination to subserve their own interests (as would be the effect of this ratio) at the expense of those by whom their interests had been supported.

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

MR. RANDOLPH hoped the House would not, in the irritation of feeling arising from the agitation of questions of order, decide this question in a pet—by which remark he intended no disrespect. But it was a matter to be decided here. The main question now depending was like a money-bill—with which no other body had a right to interfere—nor should he consent to any amendment elsewhere. It was expedient, therefore, that it should be decided with due consideration. Now, with reference to the remarks of the gentleman from South Carolina, (MR. LOWNDES,) it was evident—indeed it was reducible to mathematical certainty, that, the smaller the ratio, the less would be the fraction. If fractions, then, are to be represented, the lower we go, until we meet the Constitutional barrier, the better. MR. R. hoped the House would not agree to adopt 41,500. For himself he was opposed also to 42,000, and he would frankly admit that he was opposed to any number that should deprive Virginia of a member. But if the House should otherwise determine, be it so. But to say that they cannot adopt 42,000, because they were precluded by a rule; because, in the language of lawyers, they were estopped, by their own act—was a solecism. The power that can make can destroy; and to say that this House is so hedged in and bound by their own rules, that they cannot express their own minds, was absurd. But it seemed that the House, being met by the question of order, was trying to approximate to 42,000. For his part he was opposed to them all. In this case he was an Ishmaelite; his hands were against every man, and every man's hand against him. It was competent for the House to fix upon 42,000, if it thought proper; he hoped, however, that the Representatives of Virginia would not consent to this dismemberment—to this mutilation.

MR. MALLARY took the floor and was proceeding to deliver his sentiments on the question, when he was called to order by MR. A. SMYTH, on the ground that, as the question had been propounded by the Chair to the House, further debate was of course out of order.

The Chair decided the discussion to be out of order; whereupon

MR. MALLARY (in conformity to what he understood to be the wish of the Speaker, who desired the question, and the future practice, in this respect, to be settled by a vote of the House,) appealed from the decision of the Chair, on which a debate arose which continued about an hour. MESSRS. EDWARDS, MALLARY, BASSETT, HARDIN, BALDWIN, WILLIAMS, SMITH of Maryland, CANNON, CONDUCT, and NELSON, of Virginia, opposed the decision of the Chair, and MESSRS. RHEA, CHAMBERS, and A. SMYTH, supported it. The Speaker also explained at large his understanding of the Parliamentary law, his reasons for deciding, as he had done, in conformity, as he believed, with strict regard to the correct practice, at the same time protesting that he was one of the last who desired to impinge on the rights of the floor.

The question being put, the decision of the Chair was reversed—114 to 51.

After some further debate on the amendment, the question was taken on MR. JOHNSON'S motion to insert 41,500 as the ratio, and was decided in the negative—yeas 64, nays 114, as follows:

YEAS—MESSRS. Allen of Tennessee, Barber of Ohio, Bateman, Blair, Breckenridge, Brown, Buchanan, Burton, Cambreleng, Campbell of Ohio, Cannon, Cassedy, Colden, Conner, Durfee, Eddy, Edwards of North Carolina, Farrelly, Gist, Gross, Hardin, Hill, Holcombe, Jackson, J. T. Johnson, J. S. Johnston, Jones of Tenn. Leftwich, Long, Lowndes, McDuffie, McNeil, Matlack, Mercer, Metcalfe, Mitchell of South Carolina, Montgomery, Moore of Pennsylvania, Nelson of Virginia, Newton, Overstreet, Patterson of Pennsylvania, Phillips, Plumer of Pennsylvania, Poinsett, Rich, Rogers, Ross, Sanders, Sawyer, Scott, Arthur Smith, Alexander Smyth, J. S. Smith, Spencer, Stewart, Trimble, Tucker of South Carolina, Vance, Walker, Walworth, Wilson, Woodson, and Worman.

NAYS—MESSRS. Abbot, Alexander, Allen of Massachusetts, Archer, Baldwin, Ball, Barbour of Connecticut, Barstow, Bassett, Baylies, Bayly, Bigelow, Blackledge, Borland, Burrows, Butler, Campbell of New York, Causden, Chambers, Cocke, Condict, Conkling, Cook, Crafts, Crudup, Cushman, Cuthbert, Dane, Darlington, Denison, Dickinson, Dwight, Edwards of Connecticut, Eustis, Findlay, Floyd, Fuller, Garnett, Gebhard, Gilmer, Gorham, Harvey, Hawks, Hemphill, Hendricks, Herrick, Hobart, Hooks, Hubbard, F. Johnson, Jones of Virginia, Kent, Keyes, Kirkland, Lathrop, Lincoln, Litchfield, Little, McCarty, McCoy, McSherry, Mallary, Matson, Mattocks, Milnor, Mitchell of Pennsylvania, Moore of Alabama, Moore of Virginia, Morgan, Murray, Neale, Nelson of Massachusetts, Nelson of Maryland, Patterson of New York, Pierson, Pitcher, Plumer of New Hampshire, Randolph, Rankin, Reed of Massachusetts, Reid of Georgia, Rhea, Rochester, Ruggles, Russ, Russell, Sergeant, Sloan, S. Smith, W. Smith, Sterling of Connecticut, Sterling of New York, Stevenson, Stoddard, Swan, Swearingen, Tatnall, Taylor, Thompson, Tod, Tracy, Tucker of Virginia, Upham, Van Wyck, Warfield, Whipple, White, Whitman, Williams of North Carolina, Williams of Virginia, Williamson, Wood, Woodcock, and Wright.

MR. CAMPBELL, of Ohio, then moved that the bill be ordered to be engrossed and read a third time.

MR. RANDOLPH moved, simply to strike out 40,000—the number now in the bill, and leaving it to be filled by a future motion—and the question was ordered to be decided by yeas and nays.

A motion was then, (about five o'clock,) made to adjourn, and was negative—as a similar motion had previously been.

The question was then taken on the motion to strike out, by yeas and nays, and was decided in the negative—yeas 64, nays 112, as follows:

YEAS—MESSRS. Barber of Connecticut, Bassett, Breckenridge, Burrows, Burton, Cannon, Cassedy, Cocke, Condict, Crafts, Edwards of Connecticut, Edwards of North Carolina, Floyd, Garnett, Hardin, Hawks, Herrick, Hooks, Jackson, F. Johnson, Jones of Virginia, Keyes, Leftwich, Long, Lowndes, McNeil, McSherry, Mallary, Matlack, Mattocks, Mercer, Metcalfe, Moore of Alabama, Morgan, Murray, Nelson of Virginia, Newton, Phillips, Plumer of Pennsylvania, Poinsett, Randolph, Rankin, Rhea, Rich, Ruggles,

H. OF R.

Proceedings.

FEBRUARY, 1822.

Russ, Sanders, Sawyer, Arthur Smith, Alexander Smyth, Sterling of Connecticut, Stevenson, Stoddard, Swan, Tod, Trimble, Van Wyck, Walker, Walworth, White, Williams of North Carolina, Williamson, Woodson, and Worman.

NAYS—Messrs. Abbot, Alexander, Allen of Massachusetts, Allen of Tennessee, Archer, Baldwin, Ball, Barber of Ohio, Barstow, Bateman, Baylies, Bayly, Bigelow, Blackledge, Blair, Borland, Brown, Buchanan, Butler, Cambreleng, Campbell of New York, Campbell of Ohio, Causden, Chambers, Colden, Conkling, Conner, Cook, Cushman, Cuthbert, Dane, Darlington, Denison, Dickinson, Durfee, Dwight, Eddy, Eustis, Farrelly, Findlay, Fuller, Gebhard, Gilmer, Gist, Gorham, Gross, Hall, Harvey, Hemphill, Hendricks, Hill, Hobart, Holcombe, Hubbard, J. T. Johnson, J. S. Johnston, Jones of Tennessee, Kent, Kirkland, Lathrop, Lincoln, Litchfield, Little, McCarty, McCoy, McDuffie, Matson, Milnor, Mitchell of Pennsylvania, Mitchell of South Carolina, Moore of Pennsylvania, Moore of Virginia, Neale, Nelson of Massachusetts, Nelson of Maryland, Overstreet, Patterson of New York, Patterson of Pennsylvania, Pierson, Pitcher, Plumer of New Hampshire, Reed of Massachusetts, Reid of Georgia, Rochester, Rogers, Ross, Russell, Scott, Sergeant, Sloan, S. Smith, W. Smith, J. S. Smith, Sterling of New York, Stewart, Swearingen, Tatnall, Taylor, Thompson, Tracy, Tucker of South Carolina, Tucker of Virginia, Upham, Vance, Warfield, Whipple, Whitman, Williams of Virginia, Wilson, Wood, Woodcock, and Wright.

Mr. COCKE having declared that he voted yesterday with the majority on the question of striking out 40,000, and inserting 39,000, by which that motion was negatived—moved now to reconsider that question.

Another motion to adjourn was negatived.

Mr. EDWARDS, of North Carolina, then renewed the motion to recommit the bill, with instructions to strike out 40,000, and insert 42,000; which motion he supported with some remarks.

Mr. F. JONES opposed the motion at some length, expressing his preference of 43,000 to 42,000.

Mr. EDWARDS, for the purpose of allowing Mr. COCKE's motion to be tried, withdrew his motion to recommit.

Some debate ensued on the motion of reconsideration, and on points of order; when, another motion to adjourn prevailed, and, at near six o'clock the House adjourned.

— SATURDAY, February 2.

Mr. KENT, from the Committee for the District of Columbia, reported a bill to regulate the fees of the registers of wills in the several counties within the District of Columbia; which was read twice and committed to a Committee of the Whole.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill for the relief of William Whitehead and others; which was read twice and committed to a Committee of the Whole.

The House took up, and proceeded to consider, the resolution of Mr. COLDEN, submitted yesterday, which was again ordered to lie on the table.

On motion of Mr. BASSETT, he was excused from serving on the Military Committee, and another member ordered to be appointed in his stead. Mr. MCCOY was appointed.

The SPEAKER communicated to the House certain resolutions adopted by the Chamber of Commerce of the city of New York, expressive of their opinion of the inexpediency of repealing the acts concerning navigation, passed 18th April, 1818, and 15th May, 1820; and soliciting that the said acts may not be repealed; which resolutions were referred to the Committee of Commerce.

Mr. PLUMER, of New Hampshire, submitted the following resolution:

Resolved, That the Secretary of the Treasury be directed to report to this House the amount of the public funded debt of the United States held in foreign countries, for the last five years respectively, stating the kinds and amount of stock held in each.

The resolution was ordered to lie on the table one day.

Ordered, That a member be appointed of the Committee on Foreign Relations, in the place of Mr. Rodney, who has resigned his seat in the House: Whereupon, Mr. LOWNDES was appointed of the said committee.

On motion of Mr. A. SMYTH, it was

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of allowing the securities of George Oury, a contractor for carrying the mail, a sum of money, not exceeding \$7,555 20, towards indemnifying them for carrying the mail for nine months next after the 10th day of May, 1821.

Mr. COOK laid on the table the following resolution:

Resolved, That the Secretary of the Treasury be directed to report to this House the several sums of public money which have been drawn for or received by the "gentleman who examined the land offices in the States of Ohio, Indiana, Illinois, and Missouri, in the year 1821," by virtue of letters of credit to receivers of public moneys, or otherwise, and what sum now remains in the hands of that gentleman to be accounted for, as far as the Secretary can ascertain the same; specifying the times when, and persons from whom, such several sums may have been received; and also that he state who was appointed to examine the land offices in Michigan Territory in the year 1821; whether the duty was performed, and, if not, why it was omitted.

The SPEAKER laid before the House the following communication from the Treasury Department; which was ordered to lie on the table.

TREASURY DEPARTMENT, Feb. 1, 1822.

SIR: In obedience to a resolution of the House of Representatives of the 22d ultimo, directing the Secretary of the Treasury to furnish the House "with the annual statement of the transactions of the Bank of the United States for the year 1821," I have the honor to inform the House that no such statement has ever been rendered by the bank to this department.

The statements received by the Department, which approach the nearest to that called for by the resolution, are those rendered semi-annually, upon which the semi-annual dividends are declared. Enclosed, I submit those statements for the year 1821; and also the

FEBRUARY, 1822.

Military Academy—Missionary Petition.

H. OF R.

monthly statements for the months of June and December, of the same year. These monthly statements are merely abstracts of the several accounts on the face of the books of the bank and its offices. The statements for those months are submitted in connexion with the semi-annual statements of profit and loss, because they furnish the materials from which the latter are formed. I remain with respect, &c.

WILLIAM H. CRAWFORD.

HON. SPEAKER of the
House of Representatives.

Mr. CASSEDY submitted the following resolutions:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of authorizing the Secretary of State to cause the public laws, resolutions, and orders, passed during the present session and that hereafter shall be passed by Congress, and also, all public treaties that shall be hereafter entered into and ratified by the United States, to be published in such number of public newspapers (in addition to the number in which the same are at present authorized by law to be published) as may be requisite in the District of Columbia, and also in each of the several States and Territories of the United States.

Resolved, That the said committee be also instructed to inquire into the expediency of making provision by law for the publication of the private acts passed during the present session—and that hereafter shall be passed by Congress—in such number of the public newspapers of the said District, States, and Territories, as may be deemed requisite; and also into the expediency of extending the newspaper publication of Indian treaties.

And the question being taken thereon, the resolution was rejected.

Mr. MCCOY was appointed a member of the Committee on Military Affairs, in the room of Mr. BASSETT, excused.

MILITARY ACADEMY.

Mr. CANNON called for the consideration of a resolution he had submitted on the 11th ultimo, directing the Committee on Military Affairs to inquire into the expediency of diminishing the number of cadets at the Military Academy at West Point. That academy was established by an act of Congress, in the year 1802. It then consisted of ten cadets, and was limited to twenty, including officers, &c. It so continued until 1812, after the commencement of the late war, when, by another act of Congress, the institution was extended to, and limited at two hundred and fifty, at which it has ever since remained. It would seem, said Mr. C. that, after the reduction of the Army from twenty or thirty thousand to six thousand, by which so large a number of officers have been disbanded, that they cannot find sufficient employment in military life; but some of them are obliged to go into the judicial department. Yet there could be no reasonable doubt that those officers were better educated and prepared for military service than the cadets; and as even the former could not find employment, it carried with it full evidence that there was a surplus of military science in this country. If that establishment was sufficiently large during the war, it must

manifestly be larger during a time of peace than is necessary for the purposes of the Army of the United States.

The question was then taken, and decided in the negative—57 to 50.

MISSIONARY PETITION

Among the petitions this day presented was a memorial, by Mr. BALDWIN, from "The Western Missionary Society," in the State of Pennsylvania, praying for the grant or pre-emption of a tract of land in the neighborhood of the principal Indian settlement, to aid the object of extending the knowledge of the Christian religion and the arts of civilized life.

The memorial was read, and Mr. BALDWIN moved that it be referred to the Committee on the Public Lands.

Mr. FLOYD proposed to amend the motion by referring it to the Committee on Indian Affairs, instead of the Committee on the Public Lands.

These motions gave rise to a little debate, which is sketched below.

Mr. FLOYD expressed his regret that this petition had been presented; but, since it had been offered, he hoped it would be referred to the Committee on Indian Affairs, rather than to the Committee on Public Lands. The whole system of our Indian affairs, as proposed now to be reorganized, would be prostrated and unhinged by the encouragement of such societies as the authors of this petition. If the object of the petition was a proper one, which he did not say or deny, it ought to come in aid of such measures as the Committee on Indian Affairs should think proper. If a grant of public land were to be made to them for the purpose specified in the petition, it would put them beyond the control of all measures which might emanate from that committee. Mr. F. said he wished to see our Indian affairs put upon a tangible footing, such a one as should tend to the real advantage of the Indians, and at the same time to the economy of the public money. At present, he would only say thus much of the present system; it has cost us at least five millions of dollars since the year 1790, one million of which has been expended within a short time back. The Christian religion, we all know, is the best, said Mr. F., but we cannot make all these Indians religious at once. Such a system ought to be adopted as is applicable to the whole race, and no measures ought to receive the sanction of Congress which shall operate partially on a few, and exclude all the rest.

Mr. BALDWIN said he was sorry that the course which he proposed to give this petition, had been objected to. Looking at the object of this memorial, it was the most harmless that could be asked of Congress. It asks of Congress a grant of a piece of public land, or of the right of pre-emption to a piece of public land, for the purposes of benevolence, and of extending the arts of civilized life, and Christianity, among the Indian tribes. Such a purpose could not interfere in any manner with any attempt of the Government to effect the same object; and the simple question presented by the

petition was, whether Congress would grant a piece of land for this purpose, as they had sometimes done for other objects. If these petitioners were known to his friend from Virginia, he would know that they were the last men in the world to have improper views or motives. There were not in the country any better or more public-spirited men; and it was very far from their wish in any manner to interfere with the policy of the Government.

Mr. WRIGHT said, as he understood the proposition embraced by this memorial, it was to give to this company a quantity of land, to enable them to settle in the neighborhood of the Indians, and teach them the Christian religion. He was sorry to see any proposition introduced into this House connected with religion. He protested, *totis viribus*, against any legislation on that principle. The God who created those Indians, Mr. W. said, had inscribed on their hearts his law. Could any man presume to exact from them obedience to a law which is not written in their hearts? He believed, he said, that those people are as religious; that they worship with as much ardor and zeal the great unknown Spirit, as any other sect whatever; and that we do no good by converting them from their faith, because we unhinge their principles at the same time. The great legislator for the world has written his law on all hearts, and on all things. Look at all creation, said he—every orb moving in its own sphere, or revolving on its own axis, and filling the functions for which it was created. Look at the animals, whose instinct is astonishing, and shows the work of the Creator. The pig, said he, no matter what distance he be removed from his usual place of abode, without compass or logarithms, can find his way home through the pathless woods and wilderness. A robin was once taken from Duck Creek to Philadelphia, and left there; making its escape, it immediately flew back to the place from which it was taken. How did it find its way? The great Jehovah had written his law in the hearts of these animals, and instructed them how they should go; and, if we looked at the Scriptures, we should find that he imprints on all hearts the way in which they should go. He has done the same by the Indians, said Mr. W.—and there are no human beings but have the law of God in their hearts. Any measures taken by this Government to change their religion, would be in the teeth of the Constitution. These missionaries, sent among the Indians, he apprehended, were little better than spies among them to learn how to cheat them, &c. How do we know, said Mr. W., that the Indians have not for their guidance a better law than we? Do we see them with their whipping-posts and jails in every settlement? No; the law of God has given them property in common, and so they enjoy it in freedom and with pleasure. Mr. W. said he believed that the savage life which they enjoy—for he was very fond of the chase himself—was more favorable to the happiness of the Indians than any new order of things which would be introduced by the ecclesiastics. He believed, he said, that we were doing wrong

to those people by disturbing their habits and feelings. What has become of the generations which have passed before them? It would be a libel on the Creator to say that he had exacted from his creatures an obedience to his law without inscribing his law on their hearts. These missionaries, Mr. W. said, might as well be sent into Maryland, or any other State, to convert the people, as among the Indians—Congress having as much right to regulate the religion of the one as of the other. He hoped this proposition would not succeed, to give land to these missionaries? What do they seek, said he—the good of souls? No—they are pursuing that law which binds individuals to their interests; and it is their own interest, and not that of the Indians, which they are in pursuit of.

Mr. BALDWIN declined entering into this sort of discussion, assuring himself that a reference of this respectful petition would not be refused.

The question to refer it to the Committee on Public Lands was negatived, and the petition was referred to the Committee on Indian Affairs.

APPORTIONMENT BILL.

The House resumed the consideration of the bill to apportion the Representatives among the States according to the fourth census—Mr. COCKE's motion made yesterday to reconsider the vote of the preceding day on inserting 39,000 still pending.

The SPEAKER having pronounced this motion not to be in order, according to the rules of the House—

Mr. EDWARDS, of North Carolina, then renewed the motion which he made yesterday to recommit the bill to a select committee, with instructions to strike out 40,000 and insert 42,000, which he followed with a few remarks.

After some debate—

Mr. ALEXANDER, for the purpose of putting an end to the discussion, which he thought had continued long enough to elucidate every point involved in the question before the House, called for the previous question, which precludes further debate.

The House refused to sustain the call—ayes 55, noes 95.

Mr. RANDOLPH rose to make a motion which would supersede that of Mr. EDWARDS, and which was to recommit the bill to the Committee of the whole House, for the purpose of endeavoring to obtain the insertion of a smaller ratio. This motion Mr. R. sustained in a speech of considerable length.

A debate ensued on the motion, which continued more than an hour—the recommitment being supported by Messrs. RANDOLPH, BURROWS, and CUSHMAN, and opposed by Messrs. CAMBRELENG, WARFIELD, and NELSON, of Maryland.

Mr. CAMBRELENG was sorry to be obliged to oppose the gentleman from Virginia, for many reasons, one of which would readily occur to the House. He thought Virginia, whatever might be the ratio, would never have much, if any, cause to complain. The gentleman from Virginia had indeed, furnished the most satisfactory proof that Virginia would always be ably represented on this

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

floor. What ratio might be ultimately established, could be a matter of little importance to the State which Mr. C. had the honor in part to represent; and, throughout voting, he had been solely influenced by a sentiment of magnanimity, recommended by one of his colleagues. He thought it would be a matter of little importance to the nation whether this body was composed of one hundred and fifty-five, or two hundred, or even two hundred and fifty members; he did not believe in the power of numbers, and he must think it a subject on which more speculation than reason or judgment had been exercised. It was not necessary to imitate the extravagant and visionary scheme of Harrington, with his popular assembly; but he could not persuade himself that the happiness or liberty of the nation depended on making the number of the House twenty more or less.

He was, however, influenced by other considerations; by that so eloquently introduced by the gentleman from Virginia—the claims of the smaller of the old thirteen States; and, in being influenced by this—(prejudice, if you please,) he was sensible he should not be supposed in any manner wanting in attention to the interests of the younger branches of our political family in the North and West, who were rapidly overtaking us in our march of population, of wealth and of intelligence. He was satisfied the members from that gallant region equally desired to do full justice to the interests of the older members of the Confederacy.

Influenced by this single consideration, he had even prepared himself to vote for the ratio of 35,000, in order that Delaware might not lose one of her two representatives; but, after the opinion of the House had been repeatedly and decidedly expressed, he felt bound to submit to its better judgment, and had abandoned the cause of Delaware, with the hope that she would be always, (as she would be now, but for indisposition,) represented, by a gentleman distinguished for his integrity and ability; and while thus represented she will have no occasion to lament her loss.

I hope this bill will not be recommitted, because I am satisfied, from the many votes taken, that if 40,000 be stricken from the bill, 42,000 will be inserted, by which means Rhode Island will lose a representative, as well as Louisiana. The question, really, appears to me to be only whether Rhode Island shall have one-half of her representation? To the other, and larger members of this Confederacy, the loss of a member can be of little moment; but to this member of the old thirteen, it is all-important. She parts with half her representation reluctantly, because she parts with it forever. And, even if we grant her the privilege now, it is but a ten years' leave. Whether the ratio be 40, or 42,000, can be of little moment; but, whether Rhode Island loses one of two members, I do think a matter worth consideration. I hope the ratio will remain in the bill, and that it will not be recommitted to the Committee of the Whole.

Mr. BURROWS expressed his sentiments in favor of a recommitment of the bill before the House.

The gentleman on his left, (Mr. ALEXANDER,) who had moved for the previous question, had told the House that sufficient time had been already occupied on this subject; but, said Mr. B., I am at a loss to know by what rule that gentleman has been able to come to such a conclusion. This is a question of importance, involving our dearest rights. And are we to be deprived of the privilege of discussion, and thus precipitated to a premature decision? On this question, the consumption of time is less important, in my opinion, than the result. All such questions he considered as questions of compromise; and as far as he could judge from appearances, this House will fix on the ratio of forty thousand, which will increase the number to two hundred and twelve members. This will have a very hard bearing on some of the States, and especially on Connecticut—the State which he had the honor in part to represent. That State has a population of two hundred and seventy-five thousand; and if, said Mr. B., you fix on the ratio of forty thousand, which will entitle most of the states to a Representative on this floor, Connecticut must furnish forty-five thousand three hundred to entitle her to one; and if you fix on thirty-nine thousand as the ratio, this will leave Connecticut and several other States their present number, and add but seven members to this House. And he asked whether it would be right to deal thus with the old States? We had been told, if the number of members in this House was increased, business would not be so well done. But he was entirely at a loss to know where to seek for a rule that would produce such a conclusion. We judge of things by comparison. Will any gentleman say that business is not as well done in this House with the present number as when it was forty or fifty less? Mr. B. did not feel authorized to say what ratio would be most agreeable to his constituents, yet he could state one fact. In the convention held in Connecticut, (of which he had the honor to be a member,) to frame a constitution, a trial was made to reduce the numbers of representatives in the Legislature of that State, which is about two hundred. It was decided by a very great majority against the motion. The population of that State is about two hundred and seventy-five thousand, which on an average gives one representative, or nearly so, to every sixteen hundred persons. From this circumstance he was led to believe that his constituents would be satisfied with a ratio of thirty-nine thousand. It had been frequently stated by gentlemen, in discussing this question, if you increase this House in numbers, business will not be so well done, and the public interest will not be so well promoted. His experience in legislation had not been so great as that of many others. But he had frequently been a member of the Legislature of that State—a body which consisted of two hundred—and yet order was preserved and business despatched with facility. He felt himself authorized to state that a gentleman of high standing as to talents and integrity, and whose politics are adverse to the present administration of that State, who was a member of the Legislature last Spring, said that

more business was done, and better done, in five weeks in that body, than was done at a whole session of Congress when the number was about sixty, or short of seventy. This gentleman was a member of that Congress. Connecticut has had but a small increase of population, and the reason is very obvious. That State has furnished many thousands who have emigrated to the new States. Many gentlemen on this floor can hear testimony to this fact. And now, he would ask, will you not regard her rights? Will you reduce her number of representatives on this floor? Had this House fixed on a ratio, which would, in its operation, have done equal justice, he would have been satisfied; but in his opinion the ratio proposed would do manifest injustice to many of the States.

Mr. WARFIELD rose and observed that it had been his determination to take no part in the debate on the subject then under consideration. For, on most occasions, it afforded him more gratification to attend to the arguments of others than to offer any views of his own to the consideration of the House. He should not now have departed from the course he had generally pursued, but for the proposition made by the member from North Carolina, (Mr. EDWARDS,) to recommit the bill, with instructions to the committee to report it with the number of *forty-two thousand*, as the ratio to govern the future choice of Representatives. Mr. W. said, he would take leave to remark, that he was opposed to a recommitment of the bill for any purpose, but more especially for the purpose contemplated by the motion of the member from New Jersey, to which he had just alluded. The number *forty thousand*, which had been reported by the committee to whom this subject was referred, appeared, to his mind, in every point of view in which he had been able to examine it, to be the most proper number at which to fix the ratio of representation. It might be considered entirely impracticable to determine on any one point in the series of numbers which would altogether suit the views of every gentleman on that floor. In adjusting a principle so important to the great interests of our country, the question should be approached with a disposition to harmonize and conciliate. The principal consideration, Mr. W. said, which influenced him on all his decisions and votes on the subject, was to secure to the utmost possible extent an equal representation in proportion to numbers from every part of the Union—to keep, as far as practicable, the representation of the old States undiminished, and, at the same time, to avoid the introduction of a greater number of Representatives into that House than is necessary for the purposes of legislation, and a clear and distinct expression of the public will. It appeared to him, he said, that the most ready way to attain these desirable objects, would be to retain the number of *forty thousand*, which had been inserted and now stood in the bill. When he reflected on the votes that had already been given on the different numbers submitted to their consideration, he was disposed to think that the view he had taken would be found to accord with the opinions of a majority of the

members of the House. For, it will be remembered, said Mr. W., that every attempt to fix on any number between thirty thousand and forty thousand has been defeated, and that every effort to fix on a number between forty and forty-five thousand, has met with a similar fate. He must, therefore, he said, indulge the hope that, on the final decision of the House, the number forty thousand would be agreed on—a number which, of all others, was, in his judgment, the most proper, and the best suited to effectuate the views, wishes, and essential interests, of our common country. To the number *forty-two thousand*, as proposed by the member from North Carolina, he had insuperable objections, some of which he would endeavor concisely to submit to the consideration of the House. In fixing the ratio even at *forty thousand*, you inevitably deprive some of the old States of a portion of their representation—States who, by their wisdom and valor, contributed their full share in achieving the independence of this country and giving to us the incalculable blessings which we now enjoy; a sacrifice, Mr. W. said, which he should most gladly have avoided, if it could be done, with a just regard to considerations of still greater magnitude. It would appear, however, that this evil would be greatly aggravated by adopting the number *forty-two thousand*; for, the addition of *two thousand* to the ratio would take from Massachusetts one Representative, from New York two, from Pennsylvania two, from Virginia one. Mr. W. said, he had just made the calculation at his desk, and had not had time to pursue it far enough to ascertain its relative influence on other States. But, sir, said Mr. W., these are not all the objections I have to the proposed alteration. It will be found, said he, that, by placing the ratio at *forty-two thousand*, you deprive Rhode Island, not only of *one Representative*, but *one-half of her representation*, leaving her a fraction of forty-one thousand and thirty-eight. Now, sir, said Mr. W., if there were no other objection to the contemplated alteration, this consideration alone would, to my mind, be an insurmountable objection. Nothing, in his judgment, could possibly justify such a proceeding, but a case of extreme necessity—a necessity which obviously did not exist in the present instance. Mr. W. said, he should pronounce no eulogium on the State of Rhode Island—no panegyric from him or from any other quarter, could place her in a more exalted station than she had always maintained. Whenever her country had required her services, either in the tented field or the councils of the nation, they had been rendered without hesitation or reserve. In the impartial page of history her well-earned fame was already distinctly recorded. Mr. W. said, under these impressions, there was scarcely any situation in which he could be placed that would induce him to sanction, by his vote, a measure so destructive in its consequences to the vital interest of that State. But, Mr. W. said, he should affect no concealments on the question then before the House; for, independently of the objections he had already stated, to his mind, of a

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

character the most grave, and serious, and unanswerable, he would mention one other, which, though last, was not least in his estimation—what he alluded to was the consequences that would result from the proposed alteration to the State from whence he came. If you fix on the number proposed by the amendment, you deprive Maryland of a part of her representation—a proceeding against which he would enter his most solemn protest. Cases, indeed, might occur in which the great interests of the Union would imperiously demand the sacrifice. When such cases did occur, he should be willing to yield all other considerations to the advancement of the public good. But he was perfectly and entirely convinced that such a necessity did not at this time exist.

Mr. W. said that, so far from any beneficial result, upon the general principle of representation throughout the Union, from the proposed change, he was altogether satisfied that it was in direct repugnance to its best and dearest interests. Much has been said, in the course of this debate, of the inconveniences that would arise from too large a representation in this body. That was an objection, said Mr. W., which certainly demanded the serious attention of the House. But, if under all the circumstances bearing upon the question of apportionment, it should be impossible to feel assured that we could avoid what might be considered error—for his own part, he would infinitely prefer the error of having too large, than that of having too small, a representation on that floor. This body, said Mr. W., is composed of the immediate representatives of the people—it is justly considered as the great depository of their deliberate will, their views, and their wishes. We are placed here as the watchful sentinels over their rights, their liberties, and their happiness. He had no fears, he said, from too large a representation, still less so when it appears that, by fixing the ratio at forty thousand, this body will consist of only two hundred and twelve members—a number smaller than is sent by some of the States to the most popular branch of their Legislatures. Upon this part of the subject, Mr. W. said, he would not enlarge—much had already been said on it in the course of debate. In assigning the various reasons which would induce him to err, (if, indeed, error was unavoidable,) in favor of too large in preference to too small a representation, he should be compelled to pass over some of the grounds taken by gentlemen who had already spoken; for, in repeating them, he should unnecessarily consume the time and trespass on the patience of the House. There was one argument, however, which had been advanced, that he could not permit to pass without some notice. It was contended that, by lessening the number of representatives, more talent and more information would be found in this body. Such a position, to say the least of it, he considered extremely problematical. He was inclined to think the reverse of the position was nearest the truth. It was a point, however, which it was not necessary to discuss at large; for, after all that could be said on either side, it would end at last

very much in speculation and conjecture. Mr. W. said, he hoped he might be permitted to say, without the slightest imputation of disrespect, that there was as much information and intelligence to be found without as within the walls of that House. He had no fear of trusting to the intelligence of the people of this country; they seldom erred in their judgment when correctly informed. Too small a representation of the people on that floor was altogether incompatible with the spirit and genius of our Constitution, and repugnant to the true principles of republicanism. But, Mr. W. said, his object in rising was merely to state his objection to the proposed alteration in the bill, and he would not longer trespass upon the attention of the House.

Mr. CUSHMAN said he saw no utility in the recommitment of the bill, either with or without instructions. The vote of yesterday, said he, sufficiently indicates the sense of this House. On principles of accommodation I voted both for a higher and lower ratio than that which the committee reported; but forty thousand, to give one representative, seems to be the favorite number, and to this I am inclined for the present to adhere. A higher ratio, perhaps, would have better comported, in some respects, with the views of that portion of the nation whom I have the honor more immediately to represent. But this number has been rejected, and it is my duty to acquiesce. Our Government was formed and went into operation in the spirit of amity and conciliation, or compromise, and it must be administered in the same spirit. The people of Maine, as well as their representatives, will ever be disposed to make all reasonable sacrifices on the altar of public good.

Here, Mr. Speaker, perhaps I ought to stop, but as I now occupy the floor, I trust the House will indulge me in a few observations. I profess myself the advocate of a numerous, but not an unwieldy representation. I consider a full representation of the people conducive to the public interest and safety. Such a representation has a tendency to increase and diffuse useful and ornamental knowledge. I am sensible, sir, that it is in the political race, as it was in the Grecian games—though many exert their skill or strength, but a few can obtain the prize. But by widening the sphere of hope, and by bringing its object within reach, you raise up more competitors, the hope of success stimulates to improvement, and candidates for fame and pre-eminence will submit to a sort of mental and moral discipline, and cultivate and exert talents, and even virtues, which cannot fail, in some way or other, both to improve and embellish society. A numerous representation also tends to increase the common stock of good feelings. At a distance, unseen and unknown, and sometimes misrepresented, we become aliens to each other. But in our nearer approaches, by an interchange of thought and obliging offices, we learn to correct first impressions; we get the better of many prejudices; we rise superior to ungenerous views; we feel and cherish a mutual deference; we are inclined to friendly sentiments; and with more harmony to co-operate for the common weal.

H. OF R.

Apportionment Bill.

FEBRUARY, 1822.

It is of importance that a number sufficiently large, but not too large for the purposes of legislation, of those who wield the civil destiny of our country, should be brought into situations in which they may feel and cherish such benignant sentiments. The more extensively such sentiments are felt and cultivated here, the more widely will they be spread among the people; and this diffusion cannot but have some salutary effect on the prosperity of the nation.

I listen, Mr. Speaker, with an unwilling ear to all appeals to avarice, under the specious gildings of economy, or arguments addressed to the dissocial feelings of any portion of the community. When liberty is the boon, I shall contend for the means necessary to obtain or enjoy it, cost what they will. This sentiment was strongly felt by our forefathers, who, to secure its enjoyments, left their native country, for the wilds of America, and fixed their abodes among savage men. Should we recoil from the expense essential to the preservation of that bright inheritance which they purchased for us, we should be the unworthy sons of noble sires. The same sentiment was also forcibly felt by the sages and heroes of the Revolution. To preserve this inheritance, and to transmit it unimpaired to their posterity, they jeopardized their lives and fortunes, and were prodigal of their blood and treasure. And shall we, while their glorious achievements are fresh in our memories, forego our fathers' blessing—and, for less than a mess of pottage or morsel of meat, part with our blood-bought rights. A people, sir, willing to barter liberty for gold, are nearly fitted to be slaves, and deserve to have the yoke of despotism fixed on their passive necks.

Are gentlemen apprehensive that, should our numbers be somewhat increased, this House would not be filled exclusively with *choice spirits*? For this reason, among others for reducing the ratio, seems to have been suggested. For my part, Mr. Speaker, I cannot consider beings of an aerial mould, or *volatile spirits*, in all cases, the best adapted to human purposes. In the composition of a body like ours, some well tempered, or even heavy moulded, is as useful as the most *animated clay*. It is in the machinery of Government as it is in other machines—there need not be all springs and energies—there ought to be some checks and balances, at least some regulating powers. A numerous representation, should it not be so favorable to the privileges of *choice spirits*, “disdaining the monotonous scenes of private life,” as some might desire, will bring into our legislative assemblies a larger portion of men possessing sound sense and down-right honesty, who, not looking to the loaves and fishes of office, will be less liable to be operated on by an extraneous influence. I do not, Mr. Speaker, as some gentlemen seem to do, advocate a numerous representation as a formidable engine, intended to appal the supreme Executive. There is more to be feared, perhaps, from legislative encroachments, than from Executive ascendancy; for legislators are men of like passions. In my humble opinion, danger to our liberties will arise from a different quarter—from a council of forty,

to speak in round numbers, which may grow out of some modification of the Constitution, possessing legislative, *demi*-executive, and a fair portion of *judicial* powers. We should then, according to the views of some, said Mr. C., have halcyon days—a cheap Government, a convenient deliberative body, and the best adapted to despatch of business. We should also realize the visions of certain theoretic politicians, who have considered that to be the most perfect Government, in which all power is brought to a common centre, and this centre a single assembly. Nothing then would be wanting to complete the system but permanency and the privilege of filling vacancies; and I doubt not that this defect would soon find a remedy from the improving genius of the times. Not, therefore, to hold the Executive in thrall, do I advocate a numerous representation, but to counterpoise an aristocracy, which, in all countries, will exist in some form, and whose uncontrolled domination always is fatal to the rights and happiness of the people, and more to be dreaded than despotism itself.

Do gentlemen really apprehend detriment to our liberties from Executive influence? From the influence of an Executive virtually dependent on popular election; an Executive emphatically the man of the people, and inclined by the strongest sense of honor and interest, and all the motives which can operate on ambition to be the father to the people. Why so sensitive on the score of Executive influence? What does past experience teach? Look to the periods when Executive ascendancy was at its acme; when the authority of Jefferson united his Cabinet, and gave impulse and direction to the public councils; when the transcendent influence of Washington governed the nation. Was this influence, though Executive, deleterious? On the contrary, do we not consider their administrations most propitious to liberty; the most glorious eras of our Republic? If gentlemen are serious in their plans of economy and reform, and intent on cheap government, why not so amend the Constitution at once as to give all power to the President, to be assisted in the discharge of his duty by the ministers whom he may appoint? I doubt not, sir, on the first experiment, that the national affairs would be conducted as wisely, and as much to the satisfaction of the people, as they now are. And were the present supreme Executive and his Cabinet immortal, as well as incorruptible, I should deem an amendment to the Constitution, giving such power, the most eligible of the many which of late have been proposed.

The gentleman who made the motion for recommitment, (Mr. RANDOLPH,) when he addressed the House, made strong appeals to our sympathy. I admire his sensibility, I applaud his State attachment and zeal. I was even moved by his tears. They flowed from a generous cause, and were such as a patriot might shed in foreseeing the decline of his country. My whole soul was put in motion, for I too, at a former session, trembled for the existence of that State from which I am now a representative. *Hard ignara mali, miseris suc-*

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

currere disco. No stranger to misfortune, I learn to feel for the distressed. I too have my sympathies; and if the gentleman will allow me the honor to resemble him in any thing, I shall say that our sympathies are mutual. For the old thirteen United States I feel more than sympathy—I cherish a veneration. These States warded off oppression, fought the battles of liberty, and achieved our national independence. It will be with reluctance that I shall give a vote by which any one of them shall be deprived of its relative importance in this Union. But I must yield to necessity and an imperative sense of duty. There is much in the character of these good old States, and the men whom they produced, to call forth my gratitude and to excite my admiration. In the South I behold the immortal Henry, whose patriotism and exertions in the cause of liberty have placed him on an eminence which no eulogiums of mine can reach; I behold also the god-like Washington, whose great achievements have crowned him with bright laurels of glory. But I do not here confine my views; I look to other sections of our country. I look to Massachusetts, and there I discern some proud monuments of Revolutionary renown. I behold the cradle of liberty. I behold an illustrious band of patriots nobly daring in their country's cause. I behold the Otises, the Hancocks, the Adamases, the Warrens, who, in concert and co-operation with other sages and heroes, laid the foundation, and reared the superstructure of freedom, and gave to the national edifice its fair proportions, its lofty columns, its beauty and magnificence, its strength and splendor. Nearly all of these illustrious men have been gathered to their fathers, and their bodies are mouldering into dust. But their example lives—that can never die. Should the present and future statesman be influenced and directed by this in his civil course, the liberties of our country will be immortal, and the American people continue to enjoy the blessings of the republican system through all generations.

The question was taken by yeas and nays, and was decided in the negative—for the recommitment 76, against it 100, as follows:

YEAS—Messrs. Allen of Tennessee, Baldwin, Barber of Connecticut, Bassett, Blair, Breckenridge, Burrows, Burton, Cannon, Cassidy, Cocke, Condict, Conner, Crafts, Denison, Dickinson, Edwards of Connecticut, Edwards of North Carolina, Farrelly, Floyd, Garnett, Gist, Hall, Hardin, Hooks, Jackson, F. Johnson, J. T. Johnson, Jones of Virginia, Keyes, Long, Lowndes, McDuffie, McNeill, McSherry, Mallary, Matlack, Mattocks, Mercer, Metcalfe, Mitchell of South Carolina, Moore of Alabama, Moore of Virginia, Morgan, Murray, Nelson of Virginia, New, Overstreet, Pitcher, Poinsett, Randolph, Rankin, Rhea, Rich, Russ, Sawyer, Scott, J. S. Smith, Sterling of Connecticut, Sterling of New York, Stevenson, Stoddard, Swan, Taylor, Tod, Trimble, Tucker of South Carolina, Tucker of Virginia, Van Wyck, Walker, Walworth, White, Williams of North Carolina, Wilson, Wood, and Woodson.

NAYS—Messrs. Abbot, Alexander, Allen of Massachusetts, Archer, Barber of Ohio, Barstow, Bateman, Baylies, Bayly, Bigelow, Blackledge, Borland, Brown,

Buchanan, Butler, Cambreleng, Campbell of New York, Campbell of Ohio, Causden, Chambers, Colden, Conkling, Cook, Crudup, Cushman, Cuthbert, Dane, Darlington, Durfee, Dwight, Eddy, Eustis, Findlay, Fuller, Gebhard, Gilmer, Gorham, Gross, Harvey, Hawks, Hemphill, Hill, Hobart, Hubbard, J. S. Johnston, Jones of Tennessee, Kent, Kirkland, Lathrop, Leftwich, Lincoln, Litchfield, Little, McCarty, McCoy, Matson, Milnor, Mitchell of Pennsylvania, Montgomery, Moore of Pennsylvania, Neale, Nelson of Massachusetts, Nelson of Maryland, Newton, Patterson of New York, Patterson of Pennsylvania, Phillips, Pierson, Plumer of New Hampshire, Plumer of Pennsylvania, Reed of Massachusetts, Reid of Georgia, Rochester, Rogers, Ross, Ruggles, Russell, Sanders, Sergeant, Sloan, S. Smith, Arthur Smith, W. Smith, Alex. Smyth, Spencer, Stewart, Swearingen, Tatnall, Thompson, Tracy, Upham, Vance, Warfield, Whipple, Whitman, Williams of Virginia, Williamson, Woodcock, Worman, and Wright.

The question then recurring on the motion made by Mr. EDWARDS, of North Carolina, to recommend the bill to a select committee, with instructions to increase the ratio to 42,000—

Mr. RANDOLPH moved to amend the motion by striking out 42,000 and inserting 38,000, and followed his motion with some explanatory remarks.

After some debate, in which Messrs. RICH, CONDUCT, and RANDOLPH, engaged, the question was taken by yeas and nays on the proposed amendment to insert 38,000, and was negative—for the amendment 63, against it 111, as follows:

YEAS—Messrs. Allen of Massachusetts, Baldwin, Barber of Connecticut, Bassett, Baylies, Bayly, Bigelow, Blair, Breckenridge, Burrows, Cambreleng, Cannon, Cassidy, Cocke, Condict, Crafts, Dickinson, Edwards of Connecticut, Farrelly, Floyd, Garnett, Gist, Herrick, Hill, Jackson, F. Johnson, J. S. Johnston, Jones of Virginia, McDuffie, Mallary, Matlack, Mattocks, Metcalfe, Mitchell of South Carolina, Moore of Alabama, Moore of Virginia, Nelson of Maryland, Nelson of Virginia, New, Overstreet, Patterson of New York, Pitcher, Poinsett, Randolph, Reed of Massachusetts, Rhea, Rochester, Rogers, Russ, Scott, J. S. Smith, Sterling of Connecticut, Stevenson, Stoddard, Swan, Swearingen, Tucker of South Carolina, Tucker of Virginia, White, Williams of Virginia, Wilson, Woodcock, and Woodson.

NAYS—Messrs. Abbot, Alexander, Allen of Tennessee, Archer, Barber of Ohio, Barstow, Bateman, Blackledge, Borland, Brown, Buchanan, Burton, Butler, Campbell of New York, Campbell of Ohio, Causden, Chambers, Colden, Conkling, Conner, Cook, Crudup, Cushman, Cuthbert, Dane, Darlington, Denison, Dwight, Eddy, Edwards of North Carolina, Eustis, Findlay, Fuller, Gebhard, Gilmer, Gorham, Gross, Hall, Hardin, Harvey, Hawks, Hemphill, Hendricks, Hobart, Hooks, Hubbard, J. T. Johnson, Jones of Tennessee, Kent, Keyes, Kirkland, Lathrop, Leftwich, Lincoln, Little, Long, McCarty, McCoy, McNeill, McSherry, Matson, Mercer, Milnor, Mitchell of Pennsylvania, Montgomery, Moore of Pennsylvania, Morgan, Murray, Nelson of Massachusetts, Newton, Patterson of Pennsylvania, Phillips, Pierson, Plumer of New Hampshire, Plumer of Pennsylvania, Rankin, Reid of Georgia, Rich, Ross, Ruggles, Russell, Sanders, Sawyer, Sergeant, Sloan, S. Smith, Arthur Smith, W. Smith, Alexander Smyth, Spencer, Sterling of New York, Stewart, Tatnall, Taylor, Thomp-

son, Tod, Tracy, Trimble, Upham, Vance, Van Wyck, Walker, Walworth, Warfield, Whipple, Whitman, Williams of North Carolina, Williamson, Wood, Worman, and Wright.

Mr. RICH then offered a substitute for the instructions, directing the committee "so to amend the bill, as to provide that the House of Representatives shall be composed of — members, to be apportioned among the several States in the Union, agreeably to the rule prescribed by the Constitution, and, as near as may be, according to the population in each State."

The question was taken, without debate, on Mr. R.'s motion, and was negatived without a division.

Mr. TRACY moved to amend the instructions, by saying a number "not less than 43,000;" which motion was negatived by a large majority.

Mr. CONDUCT observed, that it was not his intention at first to have participated in the discussion of the bill, but it was now assuming such a shape as that he could not content himself by giving a silent vote. He felt it to be his duty to endeavor to amend it, and to enter his protest against an act of gross injustice which was about to be committed upon the rights of some of the small States, and, among others, upon the State which he in part represented.

The ratio of 40,000, which constitutes the principle of this bill, throws an undue proportion of the unrepresented fractions upon the small States. Some gentlemen, who represent large States, speak of the fractions as matters of no consequence, and unworthy of notice. To the small ones, however, said Mr. C., which in point of numbers are poor, they are of some importance, and we, their representatives, are bound to notice them—to "gather up the fragments." If these fractions are really of so little importance, why do you throw the whole burden, exclusively, on the small States? What is a fraction of thirty-eight or thirty-nine thousand to New York, or Pennsylvania, or Virginia? A mere drop in the bucket—a mere grain of sand on the shore of their vast population. But to the little State of Delaware such a fraction exceeds one-half her population, and takes one-half of her representation from this House. And I appeal, not to the magnanimity or liberality, but to the justice and candor of gentlemen, to take to themselves a just and equitable portion of the unrepresented fractions, and not cast them entirely on the shoulders of their weak neighbors.

Let us examine the provisions of this bill. It gives the four large States—Massachusetts, New York, Pennsylvania, and Virginia—95 representatives, and their aggregate fraction amounts to but 35,000. The five small States of Vermont, Connecticut, New Jersey, Alabama, and Indiana, with twenty-two representatives, will have an aggregate fraction of 191,000. And the fraction of any one of the last named small States is about equal to the whole fraction of all four of the large ones. The fraction of South Carolina (39,700) exceeds them by 4,000.

Let us take another view of this subject. This

bill proposes that the House of Representatives shall consist of 212 members, of which

Mass. will have	13,	and her fraction will be	3,000
New York	34,	"	8,000
Pennsylvania	26,	"	9,000
Virginia	22,	"	15,000
Add Maryland	9,	"	4,000
and Georgia	7,	"	1,000
	111		40,000

Thus we see that six States, furnishing more than half of the whole number of members of the House, have an aggregate fraction of 40,000, whilst the bill will give to South Carolina nine members, and a fraction of 39,700.

In Massachusetts, New York, Pennsylvania, and Virginia, 40,000 will elect a member, whilst in Vermont, Connecticut, New Jersey, and some other States, it will require from 45 to 47 and 48,000. Compare the two smallest States in the Union, as they will be affected by this bill, viz., Rhode Island and Delaware, whose population is nearly equal. From the former a member on this floor will represent 40,000 souls, whilst from the latter a member will represent 70,000.

Such inequality is too gross—the injustice is too flagrant. It cannot but be seen, and needs but to be seen to be abhorred.

The Constitution provides, that "representatives and direct taxes shall be apportioned among the States according to their respective numbers;" and adds, that "the number of representatives shall not exceed one for every 30,000." It must mean an equitable apportionment, and I put this question to the House, does this bill apportion the representatives among the States according to their respective numbers? Is this the equitable apportionment intended by the Constitution? Why will you adhere to a rule producing such results? Being the result of one common divisor, applied to the respective State numbers, will you still insist that it must be just and equal, merely because it is a common divisor? Adhere rigidly to any arbitrary rule, and carry it to the extreme of right, and it produces extreme wrong. We all know the maxim, *summum jus, summa injuria est*.

Will you, Mr. Speaker, apportion our taxes by this rule? Will you tell us, when you call on us for money and for troops, that our unrepresented fractions are of no consequence? Or will you, to make amends for the deficiency of our representation, kindly extend to us the privilege of being taxed to the full extent of Constitutional measure? We have some remembrance of your liberality on former occasions. In the apportionment under the third census, you made us to share as bountifully in the fractions as you now do, and in the war taxes of 1813, you remembered not to forget the full extent of that fraction.

The objections of President WASHINGTON to the bill of 1792, were two-fold. 1st. "That no one divisor applied to the State numbers, would yield the number of representatives proposed in the bill." 2d. "That it allotted to eight States, more than one representative for every 30,000."

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

The last objection was insuperable and fatal to that bill, but cannot apply to the amendment which I have proposed to this. His first objection, if indeed it be an objection at all, dwindles to nothing, in comparison with that gross inequality produced by the common divisor, which is the rule of this bill. The principle contained in my amendment is a remedy required by justice, to correct the inequality and unconstitutional apportionment, which, to my mind, this bill must create in its present shape, by adhering to and enforcing an arbitrary rule to its extreme. Whilst it will take nothing from Rhode Island, it will permit Delaware to elect a member for every 35,000, thus bringing these two States, so nearly equal in population, to stand on equal ground on this floor, where they are now equal. It will also give to New Jersey, and the other States associated in suffering with her, something like that equality of representation which the Constitution intended to secure to each State, and which this bill, in its present shape, will inevitably destroy.

Mr. C. concluded, by modifying his motion, as follows: that the bill be referred to a select committee, with instructions to change its provisions, so as that each member hereafter elected to this House shall represent, as nearly as practicable, an equal number of persons, agreeably to the fourth census, and not diminish the present number of representatives from any one State.

Mr. A. SMYTH said, that it appeared to him that the representation of the people in that House was sufficiently numerous already. The rule for limiting the number of representatives, he thought, should be determined by an answer to the inquiry, Can they hear each other, and can they conveniently do business together? If the safety of the rights of the people really required an increase of the number of their representatives—if such an increase was necessary to a fair expression of popular feelings, he should not think that the additional expense was a fair argument against the increase; but, if it did not, the increase of expense was an item worthy of consideration. Mr. S. said he considered the popular feeling of Virginia as being now expressed on that floor by her present representation. By the ratio proposed (30,000) the number of members in that House would be increased about 90, as he supposed. This would occasion an additional annual expense of about \$135,000, which, in ten years, that is before the next apportionment, would amount to \$1,350,000. The question then involved an expenditure of \$1,350,000; and he agreed that we ought not, without necessity, to expend the money which the people at home are now employed in earning. This increase of expense would attract attention; its diminution would be required; a reduction of compensation might be the consequence, and then a great number might be disposed to leave their seats in that House, to become postmasters, registers in land offices, receivers of public moneys, &c. He did not wish the independence of the members of that House to be diminished. He considered the situation of a member of that House to be one of the proudest and most dignified that any

man can be called to fill. It was also to be observed, he said, that a large body of distinguished men acquire more influence than they do in one more select.

As to the effect of the ratio on Virginia, should that State be allowed to retain its present number of representatives, yet, such have been the variations in the increase of population in different parts, that it would be necessary again to lay off the State into districts, as their population now varied from 33,000 to 40,000. He would, he said, be opposed to any number under 40,000. He preferred either 42 or 46,000; and there was another number, 47,000, in favor of which several reasons might be urged. It is particularly favorable to the class of great States, and, considering the sacrifices made by that class of States, he thought their full weight ought to be maintained on that floor. 47,000 was the highest ratio that would give to New York 29 members, and to Pennsylvania 22 members, and it was the highest ratio of three which would give to Virginia 19 members.* This ratio is favorable to Tennessee and Ohio, and it is favorable to the States of the class which will have only one representative each, as they will have greater relative weight with a large than a small ratio. It is unfavorable to some States of the middle class; and, said Mr. S., I regret that there is not some ratio that would do equal justice to all. As to what had been urged respecting the hardship of taking from Rhode Island one of its members, he would observe, that, as Rhode Island, with the tenth part of the population of Virginia, has an equal voice in the other House, and will have, with the highest ratio proposed, one-eighth of the number of votes given by Virginia in the Electoral College, and an equal vote if the election of President should be made in that House, he conceived that Rhode Island would have no cause to complain.

Mr. BASSETT spoke to show the impracticability of this mode, as well as its impropriety; and was answered by Mr. CONDIOT. Messrs. HERRICK and LOWNDES also opposed the amendment.

Mr. HERRICK, of New Hampshire, rose to inquire whether it would be in order for him to attempt to show, at this time, that an apportionment of Representatives among the States, by any assumed ratio, would be unconstitutional and unjust.

The SPEAKER said it would be in order.

Mr. H. then observed that he would begin with a passage of the Constitution—"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their numbers." Now, said Mr. H., before you can apportion the Representatives in the manner here directed, it is obvious that you must ascertain the number you have to apportion. Look at the result of an assumed ratio. Take that of 42,000, if you please, which is supposed by many to be the favorite one in this House—and, by that, you give to Tennessee a Representative for every 43,000, or thereabout, of

* Leaving a fraction of only 2,303.

H. OF R.

Proceedings.

FEBRUARY, 1822.

its population, and to Rhode Island one for more than 83,000.

Now, said Mr. H. will any man say that is an apportionment according to numbers? If it be so, as near as may, I admit its constitutionality; for perfect exactness, I am aware, is not attainable. But that is not the case, and never can result from an assumed ratio, unless by a coincidence of numbers, which is never to be expected. But adopt a fair rule—a rule evidently indicated by a plain letter of the Constitution. Instead of a ratio; assume a suitable number of Representatives to accommodate the several States, and to transact the business of the nation; and, to ascertain that number, try it by ratios, if you please, but, when ascertained, then proceed to apportion, among the States, according to numbers. And the way to do that, is to divide the whole population to be represented by the assumed number of representatives, and then you will have the true ratio by which to make your apportionment “among the States”—not assumed, but arrived at by fair calculation. Then divide the representative number in each State by that ratio, and you will give to each State a certain number of representatives, and leave a certain fraction unrepresented—and, when you have gotten through, you will have lost, by the fractions, a certain portion of the assumed number of representatives. See how many you lose—suppose it five, add one to the number to which the foregoing process will give each of the five States having the greatest fraction. You will have then apportioned the representatives “among the several States according to their numbers” as nearly as possible, and I will therefore venture to say as constitutionally as possible.

Now, sir, said Mr. H., I will show you the result of a calculation which I have made, assuming two hundred and twelve as the proper number of members for this House to consist of; this, to be sure, is not my favorite, but the number which I thought as likely to succeed as any, being precisely the same as would result from a ratio of 40,000, casting away the fractions, and I am candid enough to confess, that, when I selected this number, rather than a smaller one, I was looking towards the rising sun. Here Mr. H. showed, that by assuming this number, and apportioning it agreeable to his principle, Rhode Island and Delaware would be properly provided for, and that no other State would be materially wronged; that the greatest disparity which resulted in it, was between the two small States of Delaware and Missouri, and that much less than that between Tennessee and Rhode Island, which resulted from the assumed ratio, which gave the same aggregate number of representatives. He was sorry that no mode could be adopted which would do exact justice; but because exact justice was not attainable, it was no good argument against adopting the mode which would do more justice than any other, without in the slightest degree violating the Constitution.

Mr. H. then presented the following calculations:

	By assuming ratio.	By assuming No. of Reps.
Rhode Island,	3.038—41.519	
New York,	42.649—44.115	
Delaware,	70.943—35.471	} to each representative.
Virginia,	42.538—44.765	
North Carolina,	42.832—48.401	
Louisiana,	62.889—41.926	

The following calculation will show the number of Representatives which each of the following States would be entitled by apportioning two hundred representatives according to numbers:

As 8,959,313 : 200 :: 83,038 : 1.85 + Rhode Island.
1,368,775 : 30.55 + New York.
70,943 : 1.57 + Delaware.
895,303 : 20.09 + Virginia.
556,821 : 12.42 + N. Carolina.
125,779 : 2.80 + Louisiana.

By assuming two hundred as the number of representatives, New York, Virginia, North Carolina, will each have one less, and Rhode Island, Delaware, and Louisiana, each one more than by apportioning by the assumed ratio of 42,000.

A motion (the third) was then, at half past four o'clock, made to adjourn, and negatived.

The amendment was then further opposed by Mr. BASSETT, and supported by Mr. RICH. Mr. Cook also opposed it on principle, but if it were to pass as proposed, he hoped it would be with an amendment which he should offer, which was to add to the amendment the following: “and in such manner, as to allow, in an equitable manner, a representation of the probable increase of population in the new States.” Before, however, it was announced from the Chair, a motion was made to adjourn, and, a little before five o'clock, the House adjourned.

MONDAY, February 4.

Mr. EUSTIS, from the Committee on Military Affairs, reported a bill in addition to an act, entitled “An act to reduce and fix the Military Peace Establishment of the United States,” passed March 2, 1821. [The first section of this bill declares, that, at a certain day, in lieu of one Major General, with two Aids-de-camp; two Brigadier Generals, with one Aid-de-camp each, one Adjutant General, two Inspectors General, and one Surgeon General, there shall be one Brigadier General, with one Aid-de-camp, to be taken from the subalterns of the Army. The other sections contain correspondent details. By the 4th section it is proposed to reduce the rank of the Quartermaster General to that of a Colonel; and by the 5th section the office of Commissary General of Subsistence is made permanent. By the 11th section, the supernumerary officers and men of the ordnance are to be discharged.]

The bill was read twice and committed to the Committee of the Whole on the state of the Union.

Mr. PLUMER’S resolution, calling for information of the amount of the funded debt of the United States held in Europe for the last five years, was taken up and adopted.

The Message from the President of the United

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

States, received on the 31st January, ultimo, in relation to abuses and outrages upon the persons of American citizens in the Havana, was referred to the Committee on Foreign Relations.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of Joshua Bennett, accompanied by a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

WESTERN LAND OFFICES.

The House then, on motion of Mr. Cook, proceeded to the consideration of the resolutions submitted by him on Saturday, calling for further information on the subject of the examination of the Western land offices, &c.

Mr. Cook briefly stated the grounds on which he had introduced the resolutions, which he should not have presented, had the report from the Treasury Department contained all the information on this subject which he had expected from it. There was, he said, at least one land office in the Territory of Michigan, and no account had been given whether it had been examined, or whether any person had been directed to examine it. This was the information which he desired by the resolution, and which he presumed every gentleman would be desirous to have, to complete the information before the House. Upon the branches embraced by the other resolution, Mr. C. said, the House had not the information which had been his object to obtain. From the report which had been made it appeared there was a gentleman now in this city, and who had been in this city since the commencement of the session of Congress, who was employed to examine the land offices, whose account had not been adjusted. If the Secretary of the Treasury had thought proper, Mr. C. said, it would have been very easy to have had that account adjusted, and if he had thought proper, no doubt he would have done it. Mr. C. yet wished for that information; and, he said, when that information came before the House, he believed he should not be considered, as some in and out of doors had affected to regard him, as pursuing a personal course. When, said he, I see half the nation agitated by the appointment of a postmaster from this floor; when I see public meetings of respectable persons reprobating it; when I see the leading newspapers of the country united in condemnation of it, I cannot see any thing personal to the Secretary of the Treasury, or in itself improper, in inquiring into the appointment of a member of Congress, whilst he was a public officer, to examine into the land offices. Let it be inquired into, said he, and let it be determined whether it consists with propriety that this course should be pursued, &c.

Mr. LOWNDES objected to the phraseology of one of the resolutions, as assuming for fact that of which, it appeared to him, the House had no official knowledge. On this point some conversation took place between Mr. LOWNDES and the mover, when, with the consent of the mover, the resolutions were ordered to lie on the table.

Mr. HARDIN, to bring the whole matter to the

17th CON. 1st SESS.—29

test of inquiry, expressing his entire confidence in the correctness of the whole proceeding, adverted to, moved to refer the report received from the Treasury Department on this subject to the Committee on the Public Lands. He wished to give it this direction, because the gentleman from Illinois (Mr. Cook) belonged to the committee, and he no doubt, if any body, could *bell the cat*. Mr. H. supported this motion at some length.

Mr. Cook replied, and opposed the motion. When all the documents were before the House, which were necessary to fair inquiry, he pledged himself to move a reference to them; and no one would be more gratified than he to be able to acquit the parties concerned of all blame, if no cause for it appeared to exist &c.

On motion of Mr. Cook, the report was again ordered to lie on the table.

APPORTIONMENT BILL.

The House resumed the consideration of the bill for the apportionment of representatives among the several States, according to the fourth census; and the question was stated to agree to the amendment moved by Mr. Cook to the amendment moved by Mr. CONDUCT, and depending on Saturday last; and being taken, it was determined in the negative.

The question then recurred on the amendment submitted by Mr. CONDUCT, upon which the said amendment was modified to read as follows; and to come in after the word *instructions*, in Mr. EDWARDS's motion, viz: "so to modify its provisions as that each member hereafter elected to this House, shall represent the same number of persons, entitled to be represented, as nearly as may be practicable, agreeably to the fourth census; and not to diminish the present number of representatives from any one State."

Mr. RANDOLPH required the yeas and nays to be taken on this proposition. Among his observations in support of this amendment, he said he considered the different States as much separate and distinct in this House as they are in the other branch of the Legislature. The States in the Senate, are represented as sovereignties, and therefore coequal. The States are represented here in a proportion not direct, but in a ratio somewhat proportionate to their numbers, and consequently somewhat also proportionate, though not in equal degree, to their wealth and contribution to the public necessities. On the subject of the present proposition, Mr. R. said he could conceive no objection could be made to it which ought to be sustained by a majority of this body. It was, in all respects, a fair proposition.

Mr. GOLDEN did not perceive that the modification of the amendment avoided the Constitutional objection. He understood it to be substantially the same proposition that was objected to by General Washington on that ground. It had been his (Mr. C.'s) intention to have remained silent on this subject, and he should have persevered in that determination, had not that silence been alluded to, as proceeding from design. He was in favor

of the ratio of forty thousand, and had no wish to conceal his motives for preferring it. The ratio of apportionment should be general and uniform throughout the States. This, in his opinion, was the true and fair construction of the Constitution. A different rule would be dangerous to the harmony of our confederated system. If the general ratio is fifty thousand for a representative, and the State of Rhode Island having a fraction of thirty thousand should be entitled to another under the rule proposed, how should the State be districted for the choice? Or, carry the principle into a larger State, and what rule can you prescribe by which the Legislature can proceed in forming the districts? Where shall the large districts, and where the small ones be located? A power of that description he thought would be dangerous, and the consequences flowing from the construction proved its fallacy. Mr. C. was opposed to the reference on other grounds. He thought the general principles of apportionment were pretty well agreed upon. It seemed to be admitted that the number should be so great on the one hand as to express the sentiments and feelings of the people; and on the other hand, not so numerous as to render it inconvenient. The principal object was to fix upon a proper mean between the two extremes. That there are such extremes is as evident as day and night. It may be sometimes difficult to determine at the precise moment when one ends and the other begins; yet there were periods in which the position, that it is day or night, as the case may be, may be assumed without danger of error. The ratio of forty thousand would give to this House two hundred and twelve members. This number he thought was sufficiently large without being materially inconvenient. It would also retain to Rhode Island its present number of representatives, which was a desirable object. By extending the ratio so as to include Delaware, would, he thought, be going to an extreme. It would necessarily make an addition of thirty-one members: besides which it would be only temporary; for, by the rapidity with which the new States increase, Delaware, with her stationary population, would probably be entitled to but one member at the next census, without a large fraction. There was another reason for preferring this ratio. It gives the smallest aggregate fraction (except some very small ratio) of any number except fifty-five thousand. This was a consideration entitled to some influence. In the Committee of the Whole, he (Mr. C.) had proposed forty-seven thousand, and had voted for it; and the reason was, that it was most favorable to the State he in part represented. But when he found it necessary to abandon that ratio, he fixed upon that of forty thousand as best suited to the majority of the States in the Union. It had been objected to this ratio, that it would take one representative from the State of Virginia. But he contended that lessening its numbers did not necessarily lessen its influence. It would have the same comparative weight in the political balance, whether measured by weights of a larger or smaller denomination. He thought the question seemed

to be resolved into a matter of sympathy, for what had been termed the "Ancient Dominion." He had no objection that that expression should be made use of out of the House, but he did not expect to hear it within it. The States were on an equal footing and possessed of equal rights, and sympathy was an unsafe guide in giving character to our deliberations.

Mr. CONDUCT made a few remarks in support of his proposition. The Constitution, he said, had prescribed that representation should be apportioned among the several States according to their respective numbers. He presumed it would not be denied that the Constitution meant an equitable apportionment; and, if he could succeed in showing that the bill, as it then stood, did propose an equitable apportionment, he had some hope that the House would consent to a further modification of it. If the bill passed with a ratio of 40,000, Delaware would have but one member, leaving a fraction of 33,000 souls; so that the representative of Delaware would be in fact a representative of 73,000 persons, whilst in the State of New York, and in all the large States, each member would represent but 40,000. Mr. C. put the question to the House, whether this was not that inequality which the Constitution intended to prohibit—that injustice which this House ought to guard against. He admitted that the inequality as to Delaware was greater than as to any other State; but it was also unquestionably very great as respects Connecticut, Vermont, New Jersey, Alabama, and some other States. At a ratio of 40,000, whilst the representatives of New York would each represent 40,000 souls, those of New Jersey would represent 45,000, and those of Vermont 47,000 souls. And, said he, shall we sanction this inequality because a common division gives this precise number? One of the objections of President WASHINGTON to the act of 1792 was this: that there was no one divisor which would give to each State the number of representatives proposed by the bill. That might be true; but the great objection was, that the ratio was fixed at the minimum of the Constitution, and that in some of the States, by the provision of the bill, less than the minimum was proposed to be represented by each member. It does not follow, because the Constitution has said there shall not be more than one representative for every 30,000, that we may not adopt a ratio for some of the States which shall be less than one representative for every 30,000. Nor did he see any reason why Delaware should not be allowed one member for every 35,000, whilst New York had one for every 40,000. There was no reason which occurred to his mind why the House should adhere to a common divisor merely because it is a common divisor. If such a course was a case of right, it was a case of *summum jus*; and, said he, we all know that extreme right is extreme wrong.

Mr. SERGEANT thought the proposition involved a principle deserving of distinct consideration. It was now connected with questions of expediency, that would influence a decision upon it. He therefore hoped the mover would consent to with-

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

draw it for the present, so as to resume it hereafter in a more unembarrassed form.

Mr. CONDUCT did not withdraw the amendment.

Mr. WOOD presented a calculation showing that the parts of the proposition were incompatible with each other—for that the former part would necessarily deprive some of the States of their representatives, and would particularly take away four from the State of Virginia, which was a consequence inconsistent with the latter part of the proposition.

Mr. F. JOHNSON, of Kentucky, was opposed to the ratio of 40,000, and delivered his sentiments at some length against it. He thought it unjust, and wished the bill recommitted in order to change it. This ratio, he said, was unequal in its operation. In some States very few more than 40,000 would be entitled to a representative, whereas in others it would require 49,000, and in Delaware a much larger number. In the Constitution, taxation and representation are recognised as reciprocal. To this great principle we should approach as near as was practicable; but it was obvious that we did not make the nearest practicable approach in adopting 40,000 as the ratio. The small States would have reason to complain of such a ratio, and he presented a detailed view of its bearing upon the States of Vermont, Connecticut, and New Jersey, as well as the State of Virginia, to which ancient State he paid a merited compliment for the liberality which had, in parting with her lands to, the common stock, deprived herself of the power and influence she would otherwise have been able to maintain in the Union. He thought a liberal and high-minded course should be adopted, and that where the Constitution left room for construction, it should be construed in a manner most favorable to liberty, equality, and the principles of eternal justice. The State from which he came would not be unfavorably affected by the proposed ratio, but he thought it would destroy the harmony of representation, and that Congress should go as near to equality as they could, always keeping within the Constitutional limit of 30,000. The cause of the small States was the cause of the nation. When taxes are laid, they are not apportioned by representation. You then forget to release from payment that portion of a small State which is unrepresented. This, he thought, was abreast of the genius and spirit of the Constitution; and as a range was left for construction, he was desirous to adopt that which was most consistent with the liberal principles of those by whom that Congress was founded.

Mr. RANDOLPH begged to be indulged in saying a few, and very few, words, in consequence of a remark which had fallen from one of the gentlemen who had spoken this day. I am, said he, a man of peace. With Bishop Hall, I take no shame to myself at any time for making overtures of pacification, where I may have unwittingly offended, or for receiving them in the spirit of peace from those who may have offered offence to me. But, sir, I cannot permit—whatever liberties may be taken with myself—I cannot permit any which may be taken with the State of Virginia to pass unnoticed

on this floor. I hope the notice which I shall always take of them will be such not only as becomes a member of this House, but the dignity of that ancient State.

The honorable gentleman from New York, (Mr. COLDEN,) in assigning his reasons “for departing from his usual course of silence,” on the present occasion, had made remarks which Mr. R. said, evinced, in his opinion, a total misapprehension of the proposition of the gentleman from New Jersey. Mr. R. considered that proposition as getting at a question which the House could not get at in any other way, for that some of the numbers already passed upon would satisfy the scope and intention of the proposition of the gentleman from New Jersey.

Mr. R. said he was perfectly of opinion, however different his own practice might be from his precepts, that not the least useful—and perhaps he might put it in stronger language; and, speaking positively, say that the most useful members were the silent ones—men who exercised a deliberate judgment and sound discretion, who are more attentive to the business of the House than to making a display. Yet, he must be permitted to say that even the wisest and the best of men may sometimes be enlightened in the discussions of a subject even by the weakest; and why? Because such is the natural imbecility of our judgments, that opinions of the first impression are always liable to error, and that a man who can say nothing that has a strong bearing on a subject himself, may, nevertheless, by exciting new trains of thought, throw out materials extremely valuable to a correct decision by others. Whether, said Mr. R., I come under this description—for no one, I am sure, would include in it the gentleman from New York—I must not be permitted to judge. What, said Mr. R., had suggested to Sir Isaac Newton his theory of colors? An idle boy blowing bubbles of soap-suds. What had suggested to him his theory of gravitation? Probably another idle boy's shaking an apple-tree—for it was the fall of an apple, as we are told, that led to the train of thought that ended in that stupendous discovery. This remark Mr. R. applied to suggestions occasionally thrown out in this body. The gentleman from New York was the Representative of a State which had thought fit, in its wisdom, to limit the number of its representative body to one of the smallest number in this Union. He believed he should not be wrong to say, to the smallest number in any free representative government on earth, over a country of any thing like the same magnitude. But, Mr. R. said, when we look at the manner in which Connecticut and Massachusetts are governed, and when, said he, we reflect on what we have heard on this floor—not to speak of what we have seen from other sources—of the factions and cabals which have distracted, and, for aught I know, may yet continue to distract, the great State of New York, I see nothing in her case which would induce us to follow her example—unless it be, that if this number was sufficient for the legislation of a great State, two hundred would not be more than suffi-

cient for the United States; for, as yet, I believe the State of New York does not consider herself as equipollent with the rest of the Union. But, sir, among the attachments which I formed in early life, was a strong one to the State of New York, and to some of her distinguished characters; among them I will name her celebrated Governor, who carried her—I mean that Governor who carried her through the storm and the crisis of the Revolution, and who has since presided so much to his honor and our advantage, in the other branch of the Legislature of the Federal Government, who has left, and on a great question, too, a monument of the soundness of his judgment, and purity of his principles in regard to this Government, which might serve at once for a history and epitaph of the man. But it seems, in the heat of the moment, I was weak enough to apply to the State of Virginia an epithet, which I just now heard repeated by a gentleman from Kentucky, whom Mr. R. said he thanked for the justice he had done to Virginia—to the mother-country of the Virginia of the West—until she, too, Mr. R. added, had been overcrowded by younger chickens. He knew that it would be said, in reference to the distractions of the State of New York, that they grew out of a feature in the constitution, which had been recently expunged at the council fire. He recollected, very well, he said, that some time ago, a panacea had been applied to this thing, he believed to that very branch of the Government, and it operated like all other empirical medicines, which generally kill where they promise to cure, or at least aggravate the disease; and he very much feared that, in the recent case, too, it might turn out that the doctors had mistaken the complaint. Be that as it might, of one thing he was certain; that thirty new members, at the very mention of which the gentleman from New York seems to stand aghast, cannot be productive of any other consequence than a fuller, fairer, and freer representation of the people. At any rate, Mr. R. said, he should not be disposed to rely much on the example of a community, which he believed was the first free community under the sun, which, in its constitution, has, in so many words, given the right of suffrage to African negroes and their descendants.

In the whole of this discussion, Mr. R. said, he had been struck with the very great magnanimity and equanimity with which gentlemen on each side of him had borne other people's misfortunes, which is precisely as easy as to be generous at other people's expense. He had been struck particularly with the very great equanimity with which the member from Rhode Island, who delivered himself so strenuously on the rights of that State, bore, with the patience of Job, the privations of Delaware—bore, did he say?—ay, lent his feeble aid to lay them on—if it was not a *bull* to talk of *laying* on privations. I confess, said Mr. R., that I have (and I am not at all ashamed to own it) an hereditary attachment to the State which gave me birth. I shall act upon it as long as I act on this floor, or anywhere else. I shall feel it when I am no longer capable of action any-

where. But I beg gentlemen to bear in mind, that, if we feel the throes and agonies which gentlemen seem to impute to us at the recollection of our departing power—why, sir, there is something in fallen greatness, though it be in the person of a despot; something to enlist the passions, and feelings of men, even against their reason—Bonaparte himself, Mr. R. believed, had had those who sympathized with him—but, said he, if such be our condition; if we really are so extremely sensitive on this subject, do not gentlemen recollect the application of another received maxim in relation to sudden—I will not say *upstart* elevation—that some who are once set on horseback, know not, and care not, which way they shall ride? Thus much for peace, for I am such a lover of it, that there are occasions on which, to secure it, I am willing, not only for defensive war, but, in pursuit of it, to carry the war into the enemy's country. I hope I shall not be misunderstood. I have found the gentleman from New York always agreeable and polite in his deportment. I feel for him every sort of deference—but I beg him to recollect an old motto, that always occurs to me at the approach of every thing in the shape of an attack upon my country—it is, *Nemo me impune lacessit*.

Mr. DUFFEE believed the minds of the members of the House were generally made up on the adoption of the ratio now in the bill. Yet he could not forbear making a few remarks in relation to the State from which he came. Its interests had been so well defended by others, that no remarks were necessary from him; and he took this opportunity of returning to them his thanks personally, and in behalf of that State. With regard to the question before the House, he could not vote for the recommitment. It was not because no better ratio could be found, but because he was averse to cut loose from the anchorage where they were moored. They had been long buffeted by the agitations of the ocean over which they had traversed. On one side was a rock, on the other a shoal. They had passed between Scylla and Charybdis—and, by the lighthouse on the beach, they had been able at length to descry a safe and convenient harbor. He was not disposed to break ground and leave the port without assurance of a better anchorage, where they could ride in safety from the billows and the tempest. Could that assurance be given, he would ply every oar, and spread all his sails; but conscious that there was no security in the sea, he was not inclined to ride again upon its surge. Having no disposition to renew the discussion that had been gone over, he would make no further remarks on the subject.

Mr. TRIMBLE, of Kentucky, who had only recently turned his attention to the examination of the ratios, &c., said he was perfectly satisfied now that the principle proposed by the amendment, if adopted, instead of approximating to the nearest possible point of equality of representation, would carry the bill to the farthest possible point from that equality to which it could be carried. The latter part of it, he said, he could not vote for, because it was utterly impossible, in his opinion,

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

to give to every State in the Union its present representation. He, therefore, required a division of the question on Mr. CONDUCT's motion, so as to separate the last clause from the first question, and take the question separately on each.

Mr. BUCHANAN remarked, that the great political question seemed to have settled down into a discussion, whether 40 or 42,000 should constitute the ratio of apportionment. In the long lapse of time during which he hoped the Constitution would last, he thought the difference between those numbers could not be material. The States most injured to-day, would perhaps, by the doctrine of chances, be most benefited by the apportionment under the next census. Mr. B. hoped the ratio of 40,000 would prevail. It best accorded with the consistency of the House, which entered essentially into its character. If it was moved from the point where it now rested, what pledge could be given that the House would not be tossed upon the ocean of uncertainty for another week, as they had been for the week past? He thought the period for decision had arrived, and there was other business of great interest and importance, waiting for the deliberation of this body.

Mr. KEYES said that he had thought, from the beginning, that the House was too large, and he thought all would think so. Gentlemen had argued that the Union would be endangered from Executive influence. But with him it was only wind, and of course weighed nothing. He considered it only as designed to make a flowery speech of. He did not think so many could be corrupted. How was it with the Army? Who ever thought of setting fifteen hundred men to watch the General? So in the great ships. Again, with respect to property. How was it when men were called to appraise a farm or cattle? They cannot come to it exactly. Some will judge high and some low—so they come to a split, and from the extremes to the centre. In all parts of the country there was much distress and trouble, and people were in debt. He knew that his constituents wished for retrenchment, and he wished to save expense. It would save a million of dollars; but, since no reduction worth mentioning could be made, he was disposed to come to a medium. He did not wish to split hairs, but would consent to any reasonable number.

Mr. METCALFE moved to adjourn.—Lost.

A division of the question on this amendment being called for, the same was taken on agreeing to such thereof as is contained in the words following: "Each member, hereafter elected to this House, shall represent the same number of persons, entitled to be represented, as nearly as may be practicable, agreeably to the fourth census," and determined in the negative—yeas 43, nays 125, as follows:

YEAS—Messrs. Baldwin, Ball, Barber of Connecticut, Bassett, Blair, Borland, Breckenridge, Burrows, Cambreleng, Cannon, Conduct, Crafts, Dickinson, Durfee, Edwards of Connecticut, Garnett, Herrick, Holcombe, F. Johnson, J. T. Johnson, Jones of Virginia, Keyes, McDuffie, Mallary, Mattocks, Metcalfe,

Mitchell of South Carolina, Moore of Alabama, New, Overstreet, Randolph, Rhea, Rich, Rochester, Scott, J. S. Smith, Sterling of Connecticut, Stevenson, Stoddard, Trimble, Tucker of South Carolina, White, and Woodson.

NAYS—Messrs. Abbot, Alexander, Allen of Massachusetts, Allen of Tennessee, Archer, Barber of Ohio, Barstow, Bateman, Baylies, Bayly, Bigelow, Blackledge, Brown, Buchanan, Burton, Butler, Campbell of New York, Campbell of Ohio, Causden, Chambers, Cocke, Colden, Conkling, Conner, Cook, Crudup, Cushman, Cuthbert, Dane, Darlington, Denison, Dwight, Edwards of North Carolina, Eustis, Farrelly, Findlay, Fuller, Gebhard, Gilmer, Gist, Gorham, Gross, Hall, Hardin, Harvey, Hawks, Hemphill, Hill, Hobart, Hooks, Hubbard, J. S. Johnston, Jones of Tennessee, Kirkland, Lathrop, Leftwich, Lincoln, Litchfield, Little, Long, Lowndes, McCarty, McCoy, McNeill, McSherry, Matlack, Matson, Mercer, Milnor, Mitchell of Pennsylvania, Montgomery, Moore of Pennsylvania, Moore of Virginia, Morgan, Murray, Neale, Nelson of Massachusetts, Nelson of Maryland, Nelson of Virginia, Newton, Patterson of New York, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Reed of Massachusetts, Reid of Georgia, Rogers, Ross, Ruggles, Russ, Russell, Sanders, Sawyer, Sergeant, Sloan, S. Smith, Arthur Smith, W. Smith, Alexander Smyth, Spencer, Sterling of New York, Stewart, Small, Tatnall, Taylor, Thompson, Tod, Tracy, Upham, Vance, Van Wyck, Walker, Walworth, Whipple, Whitman, Williams of North Carolina, Williams of Virginia, Williamson, Wilson, Wood, and Woodcock.

Mr. WOODCOCK then moved to recommit the bill to a select committee, with instructions to insert instead of 42,000, the words 38,000. This motion was declared by the Chair to be out of order, having been once before voted upon and negatived by the House.

Mr. SANDERS moved to reconsider the vote by which 38,000 was rejected; but the House refused to reconsider the same—yeas fifty-six, nays one hundred and odd.

Mr. BALL then moved to insert 37,500, instead of 42,000, in the proposed instruction to the committee.

The question being taken on Mr. BALL's motion, was negatived.

Mr. WALWORTH then proposed to amend the motion as follows: Strike out all after the words select committee, and insert "consisting of one member from each State, with instructions to strike out the words forty thousand, to insert forty-one thousand, or to insert some other ratio above 41,000."

This amendment was also negatived.

Mr. NELSON moved to divide the question so as to take the sense of the House first on the expediency of recommitting the bill.

Mr. TUCKER, of South Carolina, stated, that a ratio of 40,000 would leave South Carolina with an unrepresented fraction of 39,304, and suggested the propriety of adopting a ratio of 39,900, which would give to that State one member more than she would have at a ratio of 40,000. If the amendment which he proposed should be agreed

to, it would leave every other State in the Union with the same number of members which they would have at a ratio of 40,000; and there was not a single State that would be left with as large a fraction as South Carolina would have at a ratio of 40,000. Not only so, but the ratio which he proposed would leave a much less aggregate fraction than that of 40,000, and, he believed, much less than any other ratio that had been proposed. Although it appeared that the House had got tired of this question, and had come to the conclusion to fix the ratio at 40,000; yet, as the proposition which he had offered was more just than the other, he had a hope, and was bound to believe, it would be agreed to. On all important subjects, Mr. T. said, he had remained a silent member. Other gentlemen had expressed his views better than he could do it. Therefore, he contented himself with hearing other gentlemen speak, and giving his silent vote; and, in doing so, he considered that he rendered his constituents more justice than he should do by talking or trying to talk. On this occasion, however, he could not remain silent. He should not dwell further on the subject, but submit it to the House.

The question being taken on amending the motion to recommit by inserting 39,900 instead of 42,000, it was determined in the negative without a division.

A division of the question on the recommitting with instructions, being called for, the question was taken simply on recommitting, (leaving the number to be agreed on afterwards,) and it was decided in the negative, by yeas and nays: For the commitment 85, against it 87, as follows:

YEAS—Messrs. Alexander, Allen of Tennessee, Archer, Baldwin, Ball, Barber of Connecticut, Bassett, Bateman, Blackledge, Blair, Breckenridge, Burrows, Burton, Cannon, Cassedy, Cocke, Condict, Conner, Cook, Crafts, Crudup, Denison, Edwards of Connecticut, Edwards of North Carolina, Farrelly, Floyd, Garnett, Gist, Hall, Hardin, Herrick, Hooks, F. Johnson, J. T. Johnson, Jones of Virginia, Keyes, Long, Lowndes, McDuffie, McNeill, Mallary, Matlack, Mattocks, Mercer, Metcalfe, Mitchell of South Carolina, Montgomery, Moore of Alabama, Moore of Virginia, Morgan, Nelson of Virginia, New, Overstreet, Poinsett, Randolph, Rankin, Rhea, Rich, Rochester, Russ, Sanders, Sawyer, Scott, Arthur Smith, J. S. Smith, Sterling of Connecticut, Sterling of New York, Stevenson, Stoddard, Swan, Taylor, Tod, Trimble, Tucker of South Carolina, Tucker of Virginia, Van Wyck, Walker, Walworth, White, Williams of North Carolina, Williams of Virginia, Wilson, Wood, Woodcock, and Woodson.

NAYS—Messrs. Abbot, Allen of Massachusetts, Barber of Ohio, Barstow, Baylies, Bayly, Bigelow, Borland, Brown, Buchanan, Butler, Campbell of New York, Campbell of Ohio, Causden, Chambers, Colden, Conkling, Cushman, Cuthbert, Dane, Darlington, Dickinson, Durfee, Dwight, Eddy, Eustis, Findlay, Fuller, Gebhard, Gilmer, Gorham, Gross, Harvey, Hawkes, Hemphill, Hendricks, Hill, Hobart, Hubbard, J. S. Johnston, Jones of Tennessee, Kirkland, Lathrop, Leftwich, Lincoln, Litchfield, Little, McCarty, McCoy, McSherry, Matson, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Murray, Neale, Nel-

son of Massachusetts, Nelson of Maryland, Newton, Patterson of New York, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Reed of Massachusetts, Reid of Georgia, Rogers, Ross, Ruggles, Russell, Sergeant, Sloan, S. Smith, W. Smith, Alexander Smyth, Spencer, Stewart, Tatnall, Thompson, Tracy, Upham, Vance, Whipple, Whitman, and Williamson.

• Mr. TUCKER then moved to recommit the bill, with instructions to strike out 40,000 and insert 39,900, the number with which he had proposed to amend the instructions on the previous recommitment, and supported the motion with some arguments in addition to what he had before briefly offered.

He stated, that when this subject first came before the House, he was in favor of a high ratio. He thought the business would be despatched with more facility, and that the expense would be much less. But, on reflection and mature deliberation, he had changed his opinion, and was induced to think that the more members that were on the floor the better. It was the people, he said, that supported the Government; it was their money which paid its expenses; they knew how they got their money, and they ought to know how it was applied. Therefore, the more of them that could be on this floor, with convenience, the better. He firmly believed that, for every fifty thousand dollars which would be expended to pay the additional number, more than a million would be saved to the nation. He had voted, and would again vote, for 38,000. At that ratio, if it should be proposed, he thought that the number of members would not be too great.

Mr. McDUFFIE was reluctant, after so much debate, to address the House on this subject; but he felt it his duty to do so, as a mere act of justice to the State of South Carolina. He believed he could show that the proposition of his colleague was just in itself, and would not affect or injure any other State. The fraction in South Carolina, upon a ratio of 40,000, is 39,304—wanting only 696 to entitle it to an additional member. By acceding to the proposition in favor of that State, none other would be increased or diminished, relatively or positively, in respect to the ratio in the bill. As it now stood the fractions of the other States were, in a great measure, thrown upon the State of South Carolina. The States which had the largest fraction will not have their relative situation altered by this act of justice to South Carolina; and Mr. McD. exhibited the following statement, showing the correctness of his position, and that the ratio proposed would present a fraction less by 8,811, than the ratio of 40,000. And he thought a State should not be deprived of a member, from the accidental circumstance of wanting a few hundred more inhabitants:

Maine	-	-	7	18,335	19,035
New Hampshire	-	-	6	4,161	4,761
Massachusetts	-	13	3,287	4,587	
Rhode Island	-	2	3,034	3,238	
Connecticut	-	6	35,208	35,808	
Vermont	-	5	35,764	36,264	
New York	-	34	8,775	12,175	

FEBRUARY, 1822.

Proceedings.

H. OF R.

New Jersey	-	-	6	34,551	35,151
Pennsylvania	-	-	26	9,313	11,913
Delaware	-	-	1	30,943	31,043
Maryland	-	-	9	4,389	5,289
Virginia	-	-	22	15,303	17,503
North Carolina	-	-	13	36,821	38,121
South Carolina	-	-	9	39,304	304
Georgia	-	-	7	1,126	1,826
Alabama	-	-	2	30,339	30,539
Mississippi	-	-	1	22,320	22,420
Louisiana	-	-	3	5,779	6,079
Tennessee	-	-	9	30,769	31,669
Kentucky	-	-	12	33,623	34,823
Ohio	-	-	14	21,423	22,823
Indiana	-	-	3	27,102	27,402
Illinois	-	-	1	14,843	14,943
Missouri	-	-	1	22,496	22,596

479,512

9

470,512

Mr. MALLARY moved to amend the bill by inserting 38,500. He admitted it was a hard case for South Carolina to lose a member, or rather to omit gaining an additional one, for want of seven hundred more inhabitants. But it was still harder that the States of Vermont, Connecticut, New Jersey, and Virginia, should be deprived each of a member, with fractions almost as large. In South Carolina the loss was of a negative character. In the States he had named it was positive. In the former case it merely prevented an addition—in the latter it produced an actual reduction. By adopting the ratio proposed no State would lose, and those four old States, that had stood the brunt of the Revolutionary war, would be saved from dismemberment. And was this nothing? In his view it was a consideration that applied with tenfold force to the justice and magnanimity of the House.

Mr. BURROWS was opposed to the motion, not from any unfriendly feelings to the State of South Carolina, but when he considered that the ratio of 38,500 would sustain all the States but Delaware, he could not consent to a ratio that should deprive four States of members which had fractions almost as large. And what was the difference, he asked, between the ratio of 38,500 and that of 39,900? But little more than a thousand! And when it was considered that, by adopting the former ratio, four States would be saved, he hoped the motion would prevail.

The question was taken on Mr. MALLARY'S amendment, and lost—ayes 56.

The question was then taken on the recommitment alone, (separated from the proposed instruction,) a division having been called for, and was lost—yeas 71, nays 91.

Mr. TUCKER then moved a recommitment, connected with the instructions before proposed, to strike out 40,000 and insert 39,900.

The question was again divided, at the request of Mr. A. SMYTH, who deemed the proposition a very unreasonable one. After some remarks by Mr. BURROWS, against the amendment, the ques-

tion was taken on the recommitment, and lost without a division.

The question was then at length (after having in the course of the last hour rejected five or six motions to adjourn) taken, on ordering the bill to be engrossed, and read a third time in its present shape, (with a ratio of 40,000,) and carried—yeas 110; and, a little after five o'clock, the House adjourned.

TUESDAY, February 5.

Mr. COLDEN presented a memorial of the "American Convention for promoting the abolition of Slavery, and improving the condition of the African race," praying Congress to prohibit involuntary servitude in the new acquired territories of Florida; which memorial was referred to a Committee of the Whole.

Mr. KENT presented a petition of sundry inhabitants of the town of Alexandria, in the District of Columbia, praying for an extension of the jurisdiction of the justices of the peace of said District; which petition was referred to the Committee of the Whole to which is committed the bill for that purpose.

Mr. MOORE, of Alabama, presented a petition of John McNary, of that State, the head of a Cherokee Indian family, and as such entitled to a reservation of six hundred and forty acres of land, in virtue of a late treaty between the United States and the Cherokee tribe of Indians; which said tract he is debarred, by said treaty, from selling or disposing of in any manner during his life, and praying that that restriction may be removed, and that he may be permitted to dispose of said land to a married daughter and her husband; which petition was referred to the Committee on the Public Lands.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, reported a bill for the relief of John Crute, which was read twice, and committed.

Mr. KENT, from the Committee for the District of Columbia, reported a bill authorizing the establishment of a penitentiary within the District of Columbia; which was read twice, and committed.

Mr. NEWTON, from the Committee on Commerce, to which was referred the bill from the Senate, entitled "An act to establish the district of Blakeley," reported the same without amendment, and the bill was committed to the Committee of the whole House to which is committed the bill restoring to the ship Diana the privilege of a sea-letter vessel.

The House proceeded to consider the report of the Committee on Military Affairs on the petition of John Dodge. Whereupon, said petition was again referred to the Committee on Military Affairs.

On motion of Mr. LOWNDES, the Committee of Ways and Means were instructed to inquire into the propriety of providing, by law, that books, maps, charts, and engravings, specially imported for the use of any State in the Union, shall be exempted from all duty upon their importation.

H. OF R.

Western Land Offices.

FEBRUARY, 1822.

Mr. REED, of Massachusetts, submitted the following resolution, viz :

Resolved, That the Secretary of the Treasury be directed to inform this House whether any, and, if any, what, deputy collectors of customs have been appointed by collectors, and approved by himself, in pursuance of the seventh section of an act, passed March 3d, 1817, entitled "An act to continue in force an act, entitled 'An act further to provide for the collection of duties on imports and tonnage ;' and, if so appointed and approved, whether such deputy collectors have been employed within the district of the collector, at any harbor or place where the said collector does not keep his office, for the purpose of entering and clearing out vessels, and receiving the reports of vessels which enter and remain in a harbor more than forty-eight hours and, if deputy collectors have not been appointed and employed as aforesaid, in pursuance of the act aforesaid, whether any further provision be deemed necessary to carry the same into effect.

The resolution was ordered to lie on the table one day.

On motion of Mr. FULLER, the Committee on the Judiciary were instructed to inquire into the expediency of revising or repealing the act, passed the 18th day of April, 1814, in relation to the fees of marshals and other officers, so as to render the compensation of those officers equitable and uniform throughout the United States.

On motion of Mr. JOHNSTON, of Louisiana, the Committee on Naval Affairs were instructed to inquire into the expediency of employing a greater number of public vessels in the suppression of the piracies carried on against the commerce of the United States, and whether it is necessary to employ, arm, and equip, private vessels for this purpose, and how many, and in what manner; and to report, generally, the measures deemed necessary to give entire and effectual protection to the persons and property of the citizens of the United States in the West Indies and Gulf of Mexico; and to inquire how far it may be expedient to authorize the destruction of persons and vessels found at sea, or in uninhabited places, making war upon the commerce of the United States without any regular commission; and how far, consistent with public law, a general usage or authority may be given to destroy pirates and piratical vessels found at sea, or in uninhabited places.

Mr. BALDWIN submitted the following, to wit :

Resolved, That the following be added to the standing rules of this House.

"Whenever a resolution shall be offered, or a motion made, to refer any subject whatever to a committee, and different committees shall be proposed to which such reference shall be made, the question shall be first taken upon the reference to such one of the committees which shall be proposed as is first in the following order of arrangement, that is to say: the Committee of the Whole on the state of the Union; the Committee of the Whole; a standing committee of the House; and between two or more standing committees, the one first proposed; a select committee.

The resolution was ordered to lie on the table until to-morrow.

The SPEAKER presented the annual communica-

tion from the President and directors of the Washington Canal Company, exhibiting the state of the Company; which was laid on the table and ordered to be printed.

WESTERN LAND OFFICES.

On motion of Mr. COOK, the House agreed to consider the resolution offered by him on Saturday last, calling for further information from the Treasury Department on the subject of the examination of the Western land offices, &c.

Mr. REID moved to erase from the resolve the marks of quotation and underscoring of the words "as far as the Secretary can ascertain the same," which he considered as implying a censure, and as disrespectful to the distinguished head of that Department.

Mr. COOK assented to the proposition.

Mr. BALDWIN was not disposed to reject a proposition merely calling for information, yet as the underscoring had passed into the journals of the House in italics, it seemed to imply something not expressed, which he thought was a practice the House was not prepared to sanction. If a charge was intended, it was better to speak out: but he would just observe that the most the resolution contemplates could not be considered a crime. By accepting an Executive office, a member does not incur criminality, even though he should vacate his seat.

Mr. RICH moved to amend the resolution by striking out the word *report*, and to insert in lieu thereof the word *inform*; and also to strike out all that specific part of the resolution which relates to an individual appointed to inspect the land offices.

Mr. EDWARDS, of Connecticut, was opposed to the amendment submitted by the gentleman from Vermont (Mr. RICH.) He thought that was the most material part of the resolution. He did not perhaps understand the subject, but, from what he could learn from the Secretary's report as communicated, it appeared that there had been disbursements which the Secretary could not at present ascertain. Mr. E. then adverted to the law that required that, for all moneys which go out of the Treasury, the Secretary shall issue his warrant, the Comptroller countersign it, the Register register it, and the Treasurer give his check for it. He presumed that in this case all the forms of law had been observed, and that the Secretary of the Treasury had acted correctly, but he wished to obtain further information on the subject.

Mr. BUTLER was opposed to the amendment and in favor of the adoption of the resolution. It was the duty of the House to look to the execution of the laws. He thought the information heretofore furnished by the Secretary of the Treasury was imperfect, and he wished to know distinctly whether a member of the other branch of the Legislature had received, or was to receive, compensation for his services, or whether they were gratuitous acts of benevolence to the public.

Mr. SMITH, of Maryland, stated, in reply to the gentleman from Connecticut, (Mr. EDWARDS,) that there was a special appropriation to meet

FEBRUARY, 1822.

Western Land Offices.

H. OF R.

this and similar expenses. [Mr. E. said his objections referred only to the manner of the disbursement.] Mr. S. expressed strongly the impropriety of underscoring resolutions that were offered for adoption by the House.

Mr. Cook explained, and said that the resolution was not underscored for the purpose of implying censure; but the Secretary of the Treasury, in his report, had withheld all information, because he could not give full information. His (Mr. C.'s) object, therefore, was by the underscoring to draw the Secretary's attention to that particular part of the subject, that he might communicate whatever information, more or less, was in his possession respecting it; and such a course did not, in his opinion, imply either censure or disrespect.

Mr. NELSON, of Maryland, was not opposed to calls for information, when they were expressed with decorum, or when the information was wanted. But, in this case, the Secretary had already communicated all the information he possessed. It was impossible for him the other day to state how much money had been paid, because it was received on letters of credit, of which the returns had not yet been made. Nor have they now; and, of course, no further information can be given. The Secretary admits that money has been paid—and this admission was sufficient, if there was any objection to the principle of the expenditure.

Mr. GILMER observed, that he felt no disposition, and was scarcely able to take any part in the debate, but, viewing it in the light he did, he felt himself bound to do so.

A resolution has been introduced into this House, by the member from Illinois, calling for information with regard to the conduct of the Secretary of the Treasury, and a member of the other branch of the Legislature. The member from Illinois, in explaining this resolution, has reprobated in the strongest terms the conduct of the Secretary, &c. The member from Illinois, states, he is induced to act in this manner by his zeal for the public good. Mr. G. observed, that he had heard much of boasted patriotism before; he had no doubt, that the House would put the proper construction upon the motive which influenced the member from Illinois. Mr. G. observed, that there was generally to be found in the public service, some few who were above selfish feelings, and devoted to the interest of the people, but they were the chosen few. The purity of the administration of Government could not be preserved by their exertions alone. It was perhaps, therefore, fortunate for the country that mixed and baser motives were often found urging investigation, which the public service might require. Mr. G. would not say, what motives influenced the member from Illinois, he would leave that to others to judge. Mr. G. said, that the member from Illinois had alluded to his particular duty to his constituents, in inquiring into the conduct of the Senator from the same State with himself. Mr. G. said, there lay the "rub." This inquiry was for the people at home. [The SPEAKER here called Mr. GILMER to order.] He proceeded by stating, that the member from Illinois had, the other day when this subject was first brought before the

House, prayed to his God, that the Secretary might, upon inquiry, be found to have acted correctly. Mr. G. observed that, he hoped that it was not the God whom he worshipped. He went on to say, that the member from Illinois had stated, yesterday, that it would give him the most consummate happiness to find the Secretary faultless. Consummate! He thought that this word was, in ordinary style, much more commonly attached to some other words, than happiness, and which would have applied much more appropriately for the member from Illinois.

Mr. GILMER then proceeded to reply to the remarks of the member from Illinois, in which he had asserted that the Secretary had violated the Constitution of the United States, in appointing a Senator to examine the land offices in the Western States. Mr. G. observed that, if such an appointment came within the meaning of the word *officer* in the Constitution, the member from Illinois had misdirected the whole of his charges; that his attack should have been made upon the President, who alone could appoint to such offices, and not against the Secretary. But the truth was, that such an appointment had not the smallest connexion with the prohibition contained in the Constitution, which had been so much spoken of; and that it was impossible for any one to differ with him in this opinion, who would put himself to the trouble of reading the sixth section of the first article of the Constitution. But, suppose the Senator from Illinois had accepted of an office, in violation of the Constitution, is this the place to inquire into his conduct? This is the duty of the Senate, and we should be violating the privileges of the other branch of the Legislature to institute such an inquiry. The House of Representatives would be committing a gross violation of the Constitution, were they directed, in their investigation, by the opinions expressed by the member from Illinois.

Mr. G. went on to say, that if the member from Illinois had been actuated by those pure motives which he talked so much about—this ardent zeal for the public good—why did he not prosecute the Senator from Illinois, instead of making this inquiry, which would lead to no punishment? Mr. G. then read the law which imposed a fine of three thousand dollars upon any member of Congress who entered into any contract with any officer of the United States. Mr. G. would not now express any opinion whether the service which had been rendered by the Senator from Illinois, and for which it seems he is to receive a compensation, came within the purview of this law. But he would say, however, that there was no law that gave to this House the power of punishing a member of the other branch of this Legislature, whether it did or not. Why then inquire with regard to this Senator? Was it for the purpose of procuring evidence for a prosecution? The dignity of this House would not permit such an imputation. He hoped, that before this investigation was over, the motives of it would be understood. In this House it was easy, by intimations and insinuations in debate, to give circulation to charges

throughout the United States, against the character of the person charged, even to the people of Illinois. He trusted that the attempt to make the House the medium through which such motives were to be indulged, would be viewed in the manner which it deserved.

With regard to the attack made in such positive terms against the Secretary of the Treasury, he would only say that whatever disposition he might have thought ought to have been made of this resolution at first, that he was now clearly of opinion that the investigation ought to be had; that he was in favor of keeping the most watchful eye over all the departments of this Government; that he would not scrutinize into the conduct of one department, and, when information was wanted from another, talk about the high confidence he had in such a Secretary. He would say nothing about his confidence in the Secretary of the Treasury; he would, however, say that it was due to that Secretary, that the most ample inquiry should be had. No one can arrive at so high and important a station in this Government as the head of the Treasury Department, without having had a large portion of public confidence. If he deserves it, no unfounded charges ought to be permitted to affect him by being made publicly in this House. If his conduct has been correct, it is due to him, and to the public, that these charges should be refuted. No honest man fears investigation. There is a generous feeling among all people which exalts him who is maliciously assailed. He who fears inquiry does not deserve confidence. Let the resolution pass; let us have all the information that can possibly be asked for, and if the result should be that the Secretary explains his conduct to the satisfaction of this House, and the people of this country, that he proves that his conduct has been directed by the best motives, and that the result has been in the highest degree beneficial to the country, let it be made to appear; and on the other hand, if the charges which have been made by the member from Illinois against his motives and conduct, shall be properly supported, it is due to the people of the United States that it should be known. The reputation which may have been acquired through long and active exertions, is too valuable to be trifled with. There is a delicacy in its very nature, (not the delicacy of the member from Illinois) which will admit of no insinuations without demanding explanation.

Mr. GILMER again observed that he was in favor of a strict inquiry into the conduct of every officer of this Government, that those who may be found to have discharged their duty may hold that rank in the estimation of their countrymen which they deserve, and their power of usefulness be increased; and that those who may be found undeserving of public trust may be superseded by others more worthy of public confidence.

Mr. COOK, in reply to the last objection, observed that the spirit of the Constitution was sometimes at war with its practice. It was the object of those who formed it to make the rampart complete around it, and to exclude from the pale of Congress every avenue to improper approach. The

genius of the Government was to be consulted; and he contended that where a public officer subjects himself to punishment for a misdemeanor, it does not follow that he is no otherwise punishable than by the statute.

Mr. WOODSON rose to make an effort to relieve the House at least from that embarrassment produced by the resolution of the gentleman from Illinois. The objections to that resolution arose, not from the matter, but the peculiar, indeed unprecedented, manner in which it had been drawn, a portion of it being underscored, and entered in the same mode on the Journal, and published in the papers in *italics*, evidently implying censure, and designating the object of it. This course could not be sanctioned by the House. It would be beneath its dignity to censure upon presumption. When they were in possession of the facts, if any error had been committed; if the Constitution or laws of the Union were violated, they would with firmness apply the corrective; but in the mean time, we ought to extend to those who are elevated in public confidence that benign principle which presumes every one innocent until his guilt is established. Since the explanation of the gentleman, it ought to be attributed to inadvertence. He therefore hoped that the gentleman himself would assent that the part underscored should be expunged from the Journal. He would move at all events, to amend the resolution by striking out those words, and, as the object of the gentleman was to obtain that portion of information which he states the Secretary of the Treasury does possess, the amendment proposed would certainly accomplish that object. It was certainly desirable, not only to the parties implicated, but to this House, that no part of the information required should be withheld. He was confident none would be. He therefore hoped the amendment would be adopted, and the resolution, when thus amended, should pass.

Mr. COOK presumed that the publicity of the debate would answer his object of calling the attention of the Secretary to that point. He therefore assented to the motion, and to that part of the motion of Mr. RICH which proposed to substitute the word *inform* for *report*.

After a few remarks by Mr. F. JONES, who wished the mover to make his motion more broad and direct, (to which Mr. C. did not accede,) the question was taken on the second part of Mr. RICH's amendment, and negatived; and the resolution was thereupon adopted.

APPORTIONMENT BILL.

The Apportionment bill was read a third time, when Mr. MALLARY moved to recommit the bill with instructions to strike out the words *forty thousand*, (the ratio,) for the purposes of inserting in lieu thereof, the words *thirty-eight thousand*.

Mr. MALLARY remarked, that he would occupy but little of the time of the House in stating the views he entertained on the subject. The ratio of 40,000 seemed to be a favorite number, and his only object was to ask for a small deviation from it, to accommodate some of the States. To adopt

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

the ratio of 38,500, would, in his opinion, be more compatible with the principles of justice and equality. In the first place he would observe, that the aggregate of fractions was in favor of the ratio he was about to propose. At the number in the bill they exceeded, by 100,000, the aggregate fractions on the proposed ratio of 38,500, and were very unequal in the distribution. By relaxing only 1,500 in the ratio, the States of Virginia, Connecticut, and Vermont, would preserve their present number of representatives. Mr. M. then referred to the following statements, to which he earnestly called the attention of the House:

STATES.	Ratio at 38,500		Ratio at 40,000	
	No. of Reps.	Fractions.	No. of Reps.	Fractions.
Maine - - -	7	28,835	7	18,335
New Hampshire -	6	13,161	6	4,161
Massachusetts -	13	22,787	13	3,287
Rhode Island - -	2	6,038	2	3,038
Connecticut - -	7	5,708	6	35,208
Vermont - - -	6	4,764	5	35,764
New York - - -	35	21,275	34	8,775
New Jersey - -	7	5,051	6	34,551
Pennsylvania - -	27	9,813	26	9,313
Delaware - - -	1	32,443	1	30,943
Maryland - - -	9	17,889	9	4,389
Virginia - - -	23	9,803	22	15,303
North Carolina -	14	17,821	13	36,821
South Carolina -	10	14,344	9	39,344
Georgia - - -	7	11,626	7	1,126
Alabama - - -	2	34,339	2	30,339
Mississippi - -	1	23,820	1	22,220
Louisiana - - -	3	10,279	3	5,779
Tennessee - - -	10	5,769	9	30,769
Kentucky - - -	13	13,123	12	33,623
Ohio - - -	15	3,934	14	21,434
Indiana - - -	3	31,602	3	27,102
Illinois - - -	1	16,343	1	14,843
Missouri - - -	1	23,996	1	22,496
	223	383,563	212	489,063

The following is a condensed view Mr. M. offered to the House, of the result produced by the number contained in the bill and the one he proposed, as they related to the fractions and their distribution:

Ratio 38,500.		Ratio 40,000.	
over 30,000	3	over 30,000	9
under 30,000 and over 20,000	5	under 30,000 and over 20,000	4
under 20,000 and over 10,000	8	under 20,000 and over 10,000	3
under 10,000 and over 5,000	6	under 10,000 and over 5,000	3
under 5,000	2	under 5,000	0

which, Mr. M. contended, was conclusive evidence in favor of 38,000.

An objection would perhaps be urged against a departure from the number proposed in the bill on the ground that it would imply an inconsistency in the doings of that body. But, in his view of the subject, the House had not yet come to a decision that embodied its entire approbation. Perhaps there was no number that, *per se*, would command a majority. After all, it was a matter of compromise, and when the ratio he suggested was placed side by side with that in the bill, and when the effect and bearing of both were examined together, he would, with much confidence, ask the House whether the result was really such as they had expected? Those States from whom nothing is taken, cannot be expected to appreciate fully the feelings of those States that are called upon to acquiesce in the cutting off from their representation. But it was too much to require that those feelings should not exist. And if they do exist, ought they not to be respected? The very basis of this Government is laid in public feeling; and a disregard for it can never be unattended with danger. If, then, other things are equal, it is not too much to anticipate that this consideration will turn the scale. By respecting it, three States at least would be saved from the mortification of witnessing their palpable decline. For, say what you will of their retaining a relative weight, it is impossible that they should not have an honest feeling on the subject. The character of those States which were more immediately affected was known. Vermont, however humble its representative, could speak for itself. The others had their advocates and supporters. Mr. M. was aware of the impediments that might be thrown in the way of his proposition, by calling for a division of the question; for, by dividing it, many who might be willing for the ratio desired, might oppose the recommitment from an apprehension that, being opened, the bill might be amended in a manner to them more objectionable than that in which it now appears. Yet he should appeal to the magnanimity of the House against the interposition of such embarrassments, and in the confidence that the appeal would be sustained, he moved to recommit the bill to the Committee on the Judiciary, with instructions to erase the words *forty thousand*, as the ratio, and insert, in lieu thereof, the words *thirty-eight thousand five hundred*, and to vary the residue of the bill in such manner as to correspond with that amendment.

Mr. RHEA said he had refrained from making any observations on the subject of fixing the ratio of representation in the House of Representatives of the people of the United States. He said he would vote for the proposition of the gentleman from Vermont, which, he understood, was to recommit the bill for the purpose of striking out the words "forty thousand," and inserting in place thereof, the words "thirty-eight thousand five hundred" to the end, that that number may be adopted for the ratio of representation on the late census. He said he would have preferred an higher ratio, excepting that of forty thousand, and some others; but, believing that could not be obtained, he would otherwise direct his attention,

reserving to himself, however, the right of pursuing his first opinion on this subject if a proper opportunity will be afforded. In fixing the ratio of representation, he had believed that a general principle would have prevailed, which, in its operation, would have added not many, if any, to the present number of Representatives in this House, already sufficiently numerous, or nearly so, to transact all the public business of this nation. Observing, by the course of proceedings on this important question, that particular conveniences of States were attended to, he believed that it was right for him also to do so; and, perceiving that there was but little appearance that the general principle he had alluded to would be adopted, he was more influenced to be in favor of recommending this bill by recollecting that ten years past, when the ratio of representation was fixed, there remained to the State of Tennessee a fraction of more than 34,500; deficient a few hundreds of the ratio of 35,000; against the inequality of which he said that he, at fixing that ratio, had remonstrated, but without effect. He said that he had examined the calculation made of the number of Representatives that each State would have on the proposed ratio of 38,500, and had compared it with the number of Representatives that each State would have on a ratio of 40,000, and it appeared that the States of Connecticut, Vermont, New York, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, Tennessee, Kentucky, and Ohio, (eleven States,) will each of them have one Representative more on the proposed ratio of 38,500, than on the ratio of 40,000.

I will further observe (said Mr. R.) on this subject, that if a ratio of thirty-eight thousand five hundred be adopted, the eleven States before mentioned will each have one Representative more than each of them will have on a ratio of forty thousand; and to the other thirteen States of this Union no injustice will be done. He said he would further observe, that a ratio of thirty-eight thousand five hundred would give an increase of only eleven Representatives more than a ratio of forty thousand. An additional reason going to show that a ratio of thirty-eight thousand five hundred ought to be adopted is, that if that ratio be adopted, the amount of the fractional numbers of all the States will be about three hundred and eighty-three thousand five hundred and sixty-three—and the fractional numbers of all the States, on a ratio of forty thousand, will be about four hundred and eighty-nine thousand and sixty-three, making a difference of about one hundred and five thousand and five hundred in favor of a ratio of thirty-eight thousand five hundred. On this view of this subject (said Mr. R.) I will vote to recommit the bill, believing that the proposed ratio of thirty-eight thousand five hundred will give a more just representation to eleven States of this Union, and will not do any injustice to the other States, for these will be represented as they would be with a ratio of forty thousand, and also because, in my opinion, it is more consistent with the grand principle of representation contained in the Constitution of the United States.

Mr. Ross said he should oppose a recommitment of the bill, principally on the ground that it would open again the same wide field of debate that had occupied the attention of the House for ten days past. Much had been said, during the discussion, on the subject of general principles, and the principles of accommodation—and yet the sequel had shown that, whenever a vote was taken, each one's eyes were turned to his own State, if not to his own district. He was not about to arraign this reference to State considerations; yet he could not forbear to remark that, with all the talk about fractions, it had been overlooked that the State of Ohio, for perhaps four years past, had had a greater fraction unrepresented than the whole of either of the States of Vermont, Connecticut, or New Jersey; or than Rhode Island and Delaware put together. Yet she did not complain—but with every respect to his worthy friend from Vermont, (Mr. MALLARY,) he could not, for one, consent to renew the discussion. His motives were friendly, but he thought the period had arrived in which it was proper to bring the subject to a conclusion.

On motion the Committee rose, and the House adjourned.

WEDNESDAY, February 6.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill making appropriations for the support of Government for the year 1822; which was read twice, and committed to a Committee of the whole House to-morrow.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made an unfavorable report on the case of the Levy Court of Calvert county, in the State of Maryland; which was read, and committed to a Committee of the whole House to-morrow.

The resolution submitted yesterday by Mr. REED, of Massachusetts, on the subject of collection duties and imposts, &c., was called up and adopted.

On motion of Mr. BALDWIN, the House then agreed to consider the resolution submitted by him on yesterday, relating to the standing rules of the House, which, on motion of Mr. NELSON, of Virginia, was amended, so as to raise a Select Committee, to revise the standing rules of the House generally; which amendment was assented to by the mover, and adopted by the House; and Mr. NELSON, of Virginia, Mr. BALDWIN, Mr. TAYLOR, Mr. BASSETT, Mr. CONDUCT, Mr. SMITH, of Maryland, and Mr. RICH, were appointed a committee pursuant thereto.

The House proceeded to consider the resolution submitted yesterday by Mr. REED, of Massachusetts; and, the same being again read, was agreed to.

The House proceeded to consider the report of the Committee of Ways and Means on the petition of Jonathan Battelle; and, the same being read, was committed to a Committee of the whole House to-morrow.

The House proceeded to consider the report of the Committee of Claims on the petition of George

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

W. FOX; and, the same being read, was committed to the Committee of the whole House to which is committed the bill for the relief of Joshua Bennett.

Mr. BALDWIN submitted the following resolution:

Resolved, That the Secretary of War be directed to furnish to this House a comparative view of the expenses of the Army proper for the years 1816, 1817, 1818, 1819, 1820, 1821, and the estimates of 1822, arranged under the various heads of expenditure, according to the present and former organization of the Department of War.

The resolution was ordered to lie on the table one day.

Mr. CUSHMAN submitted the following resolution:

Resolved, That the 16th rule, in relation to the "order of business of the day," be so far altered, that the Speaker, in calling for petitions, shall, hereafter, begin by calling for petitions from Maine.

The resolution was ordered to lie on the table until to-morrow.

On motion of Mr. WILLIAMSON, the Committee on Commerce were instructed to inquire into the expediency of erecting a lighthouse on Long Island Head, outside of Mount Desert, in the county of Hancock, in the State of Maine.

On motion of Mr. McSHERRY, the Committee of Ways and Means were instructed to inquire into the expediency of making an appropriation for the payment of the expenses of the general courts martial instituted for the trial of the militia delinquents of the late war in the State of Pennsylvania.

The House proceeded to consider the resolution submitted on the 31st ultimo by Mr. BURTON; and, the same being read, was further modified and agreed to, as follows:

Resolved, That a select committee be appointed to inquire whether it be necessary to make any modifications of the law passed in the year 1813, entitled "An act to encourage vaccination."

Mr. FLOYD, Mr. KENT, Mr. HALL, Mr. WHIPPLE, and Mr. BATEMAN, were appointed the said committee.

Mr. MERCER submitted the following motion for consideration:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of augmenting the number of the sloops of war in the Navy of the United States.

In offering this resolve, Mr. M. said, it was not usual with him, on introducing resolutions to the consideration of the House, to accompany them with remarks; but on this occasion he thought it proper to assign the reasons that had induced him to bring this resolution forward. The object of it was more effectually to suppress the slave trade. By the returns that had been made it appeared that three of the prizes that had been taken by one of our most gallant officers, on the coast of Africa, were retaken by the rising of the captured against the captors, the prize crews being too feeble in number to keep the control. Mr. M. thought that the sentiment of humanity would dictate the protection of the officers and seamen of our Navy against

these lawless desperadoes, made desperate by captivity, by sending larger vessels, carrying men enough to man the prizes. And, Mr. M. said, if we look to the employment of the Navy as a school, in time of peace, to prepare them for the exigencies of war, he could not conceive one better suited to it than that which was contemplated by the resolution.

The resolve was agreed to.

Mr. COLDEN presented a memorial of the President and Board of Managers of the American Colonization Society, praying that further and more effectual measures may be adopted for the suppression and entire abolition of the African slave trade; which memorial was referred to the Committee on the Suppression of the said Trade.

Mr. JOHNSON, of Louisiana, submitted the following resolution, viz:

Resolved, That the Secretary of the Navy be directed to lay before this House what vessels are employed in the West Indies and Gulf of Mexico, and whether any vessels ordered to cruise in that quarter have failed to comply therewith; whether the force is sufficient to protect the commerce of the United States; what additional force is necessary; what measures are now in contemplation; and what public vessels can be speedily put on that service.

The resolution was ordered to lie on the table one day.

APPORTIONMENT BILL.

The House resumed the consideration of the engrossed bill entitled "An act to provide for the apportionment of Representatives among the several States according to the fourth census;" and the question recurred on the motion of Mr. MALLARY, depending yesterday, that the said bill be recommitted to the Committee on the Judiciary, with instruction to amend the same by striking out "forty thousand" and inserting "thirty-eight thousand five hundred:" whereupon,

Mr. MALLARY withdrew that motion, and moved that the bill be recommitted to the Committee of the whole House.

Mr. BUTLER, of New Hampshire, did not intend to tire the patience of the House in any observations he proposed to submit in opposition to the amendment offered by the gentleman from Vermont, (Mr. MALLARY.) He was aware that there were no rules or principles that could be resorted to as a fixed standard by which to measure the representation in the House of Representatives. But it was evident that, in a very large body, individual responsibility is not so much regarded, and of course there is less vigilance and less attention to public business. The present proposition would increase the House thirty-six in number; and if we were to go on in the same ratio, the House in 1840 might well be termed a "multitudinous assemblage." He believed that the people were not collectively in favor of an increase. For himself, he was in favor of a large ratio—for 47 or 48,000. But he was satisfied that such a ratio could not succeed, and, as it could not, he would frankly confess that he would support the ratio of 40,000, the more particularly be-

H. of R.

Apportionment Bill.

FEBRUARY, 1822.

cause it was favorable to the State he had the honor, in part, to represent. Yet he should have no special objection to diminish the representation of that State; nor could he perceive how the relative weight or power of the States would be affected either by an increase or diminution. The rule of proportion was common to them all, and he thought that reference should always be had to the general interests of the nation. If we were at this time governed by local considerations, so it would be hereafter; and the same arguments, in relation to fractions, would be urged on all occasions of future apportionment. The argument and statement of the gentleman from Vermont, (Mr. MALLARY,) was plausible, and he would admit that the aggregate fraction would be diminished by adopting the ratio proposed; but, if the bill were recommitment, and a different ratio substituted, yet there would always be found some States who would think they were aggrieved, and had a right to complain.

Mr. WILLIAMS, of North Carolina, had no wish to curtail the range of debate, or arrest the progress of free and full inquiry. It was doubtless an important subject, and required consideration. Every member had a right to express his sentiments upon it. It affected every State, and although the House might feel exhausted, yet he thought it improper to urge on hastily a precipitate decision. His present object was to suggest to the mover so to modify the amendment as to strike out that part of it which requires the report of a particular ratio, and to leave that part of it open to consideration.

Mr. SWAN was opposed to the recommitment. He did not rise, he remarked, for the purpose of participating in the debate, but merely to state one fact as relates to the situation of New Jersey. Much had been said in reference to this question, and any further remarks might be considered as superfluous. He was opposed to the ratio of 40,000, as contained in the bill before the House, inasmuch as it would give New Jersey a fraction of 34,551, and to Kentucky, North Carolina, Vermont, and Connecticut, nearly the same number.

Now, sir, said Mr. S., although we cannot dispose of the respective fractions, yet they can be more equitably divided. Much has been said of the magnanimous course which four of the States are willing to adopt. Their merits and claims have been portrayed to this House in energetic and glowing colors. But I conceive, said Mr. S., that we have but one plain, solid question to decide: that is, What will be the interests of this nation in fixing a ratio for representation? No varnishing is necessary to decide this question. I consider this House, from the small experience I have had, as already very unwieldy, and am not willing to increase the number of its Representatives to any great extent, believing the good of the country does not require it, and that the pockets of the people may be saved. The question, he thought, had acquired more consequence in proportion as it progressed; and, during the investigation, sensations appear to have been excited

which he did not expect would have resulted from the inquiry.

Mr. LONG, of North Carolina, said he should vote for the recommitment of the bill, not because he was in favor of the proposed number, but was in favor of 42,000. It had been frequently said, that the sense of the House had been taken on 42,000. He said he would admit that the question had been taken on that number, but it was at a time when gentlemen had many other favorite numbers in view. I for one, said he, have been, and would now be, in favor of a much higher number, for the purpose of reducing our present number of Representatives, if there was any probability of getting it; but from the disposition so plainly expressed by the different votes of this House on this subject, I have lost sight of all numbers above 42,000; and I am convinced that other gentlemen have lost sight of their favorite numbers, which induced them to vote against 42,000, and would now prefer that number to a less one. My object, then, in voting for a recommitment of this bill, is to have an opportunity of offering an amendment to that effect when the bill shall again be reported to the House, so as to have the question fairly and simply tried between 40 and 42,000, as I am inclined to believe that, when we see, as I think we now do, that we are to settle upon one of two numbers, there will be found a majority in this House in favor of 42,000. My object is to be so understood as to show the consistency of my votes—and these are my reasons for voting for a recommitment of the bill.

[As soon as the motion was so varied subsequently as to admit of the motion, Mr. LONG moved to amend the proposed instruction by striking out 50,000 and inserting 42,000.]

Mr. MALLARY was not disposed to restrict the recommitment by any specific instructions that might be in the way of a fair and unembarrassed decision of the question. In conformity, therefore, to the wish expressed by his friend from North Carolina, (Mr. WILLIAMS,) he would vary his motion by proposing a simple recommitment of the bill. But, before he sat down, he would make a very few remarks in reply to the gentleman from New Hampshire, (Mr. BUTLER,) who had admitted in argument that the proposition for 38,500 was plausible. He hoped, on further reflection, the gentleman would be convinced and acknowledge that it was not only plausible but just. That gentleman did not seem to consider it very material whether the House were at present to consist of 212 or 220 members; but he had great anxiety with regard to its effect ten years hence. Mr. M. did not consider this consideration entitled to the weight which that gentleman seemed to attach to it. Prospective legislation was unnecessary, and not altogether safe. But, if the proposition he had submitted succeeded, there will have been at the end of ten years an experiment made, that could test the expediency of a further augmentation of this body. In reply to the gentleman from Ohio, (Mr. ROSS,) who had adverted to the uncomplaining bereavement of that State, he would inquire how this wonderful

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

increase had happened? The answer was obvious; it was by emigration from the very States that were so injuriously affected by the ratio in the bill. The natural increase of population in Ohio was probably not greater than in other States—and, when those who went from the east emigrated thither, they went with the knowledge of the privileges and restrictions of the State where they settled. They knew the basis and extent of its representation, and, if they were dissatisfied with it, they might stay at home. Their emigration was a voluntary act, and it did not much savor of filial piety to turn round and abridge the rights of their parent States. One further remark, and he would trouble the House no further. Some gentlemen seemed unwilling to vary from the bill, lest the subject might be opened for further discussion. He would only say, in reply, that he did not think that the House ought to be afraid to trust itself with the subject. He thought it was worth the trial, and he hoped such a decision would be had as would give general satisfaction.

The question was taken on Mr. LONG's motion and negatived—yeas 58, nays 106, as follows:

YEAS—Messrs. Abbot, Allen of Tennessee, Archer, Bassett, Blackledge, Blair, Breckenridge, Campbell of New York, Campbell of Ohio, Cannon, Casedy, Cocke, Conduct, Conkling, Conner, Crafts, Cradup, Edwards of North Carolina, Gist, Hall, Hardin, Hawks, Herrick, Hill, Hooks, J. T. Johnson, Leftwich, Long, McCoy, McDuffie, McNeill, Matlack, Mattocks, Mercer, Mitchell of South Carolina, Montgomery, Moore of Virginia, Morgan, Nelson of Virginia, Newton, Overstreet, Pierson, Poinsett, Reid of Georgia, Rhea, Sanders, Arthur Smith, Alexander Smyth, J. S. Smith, Spencer, Swan, Trimble, Tucker of South Carolina, Walker, Walworth, Williams of North Carolina, Wilson, and Woodson.

NAYS—Messrs. Alexander, Allen of Massachusetts, Baldwin, Ball, Barber of Connecticut, Barber of Ohio, Barstow, Baylies, Bayly, Bigelow, Borland, Brown, Buchanan, Burrows, Butler, Cambreleng, Causden, Chambers, Colden, Cuthbert, Dane, Darlington, Denison, Dickinson, Durfee, Dwight, Eddy, Edwards of Connecticut, Eustis, Farrelly, Findlay, Floyd, Fuller, Garnett, Gebhard, Gilmer, Gorham, Gross, Harvey, Hemphill, Hendricks, Hobart, Hubbard, F. Johnson, Jones of Tennessee, Kent, Keyes, Kirkland, Lathrop, Lincoln, Litchfield, Little, McSherry, Mallary, Matson, Metcalfe, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Moore of Alabama, Murray, Neale, Nelson of Massachusetts, Nelson of Maryland, New, Patterson of New York, Patterson of Pennsylvania, Phillips, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Rankin, Reed of Massachusetts, Rich, Rochester, Rogers, Ross, Russ, Russell, Scott, Sergeant, Sloan, S. Smith, W. Smith, Sterling of Connecticut, Sterling of New York, Stevenson, Stewart, Stoddard, Swearingen, Tatnall, Taylor, Thompson, Tod, Tracy, Tucker of Virginia, Upham, Vance, Van Wyck, Whipple, White, Whitman, Williams of Virginia, Williamson, Wood, and Woodcock.

Mr. TON, of Pennsylvania, moved to instruct the committee, to whom the bill was to be re-committed, to strike out 40,000, and to report a ratio of 50,000.

Mr. TON said that he had proposed to insert 50,000 as the ratio. The ratio of 38,500 and 40,000, were both, in his opinion, highly exceptionable. They both proposed to bring into the House from a single State—from the State of New York, one State only out of the twenty-four—a number of representatives amounting to within three or four of the whole number of members of the Convention that signed the Constitution. But, bad as the effect would be, the arguments and principles upon which the plan was supported, were worse. Doctrines, said Mr. T., which, if sound and valid now, must be so always—and which, if this country should continue to increase in population as it had done, would, in the course of twenty or thirty years, bring—not upon that floor, for that would never hold one-third of them, but somewhere upon this ground—a host of legislators, such as would be enough to astonish even the French Council of five hundred, or the British Parliament of six hundred and fifty—to both which great assemblies the attention of the House had been directed, by way of example and argument, from matter of fact, to show that there is no mode so sure of protecting the rights of the people as that by an army of legislators.

When, said Mr. T., gentlemen tell us that the very life of representation is that the representative should have the same feelings and interests with his constituents—should not be removed too far, but be near and well known to them, Mr. T. saw no objection to all that, as far as he could understand it. But when gentlemen urge further that the numbers of the delegates should always keep pace with the increasing population of the country, and that an immense multitude of people can never be fitly represented except by an immense multitude of members of Congress—there, said Mr. T., I beg leave to stop and to protest against the doctrine as an heretical and pernicious innovation in American politics, supported by no reason, nor recommended by any experience, but condemned by the whole American people, by precept and by example, before the Revolution, during the Revolution, and ever since.

No doubt the representative should be elected directly by the people, and should reside in the same district with them; but it did not so clearly follow that the smaller the district the better. The members of the old Revolutionary Congress were elected, Mr. T. believed, not here and there separately, each one by his own neighbors, and friends, and relations, but chosen altogether by the people or by their authority; and that, to this day, this vital principle of republicanism, as it has been called, of restricting the people from choosing a member of Congress, except from under their noses, is, in practice, deemed so worthless that, in contempt of it in the State of Pennsylvania, four members of this House are elected together in one district; and nearly two-thirds of the residue of their delegation are elected in couples in districts some of them of the extent of eighty miles or more. The same practice in New York, as we learn in this debate. And in Connecticut, whence the gentleman (Mr. EDWARDS) comes, who has

been most forcible in urging the necessity of great numbers here, in order that there may be small districts at home, that the people may better know the men whom they are to send to Congress. Connecticut, incontestably the most democratic State in the Union, if democracy is to be considered matter of fact rather than of theory—they there always have elected, and yet do elect, all their Representatives in Congress by general ticket, each voter in the State voting for the whole number.

When, continued Mr. T., we are warned so solemnly of the danger which impends, if the awful day shall come when there are to be reduced numbers in this House, he might reply, that the old Revolutionary Congress had but little more than one-fourth of our present numbers. The Convention which formed our Federal Constitution, upon whose deliberations it is not perhaps too strong a figure to say that the destiny of hundreds of millions depended, gave that Constitution signed by but thirty-nine names. The Declaration of Independence stands signed by fifty-five. The constitutions of all the States, with two or three exceptions, accidental perhaps, and which, for many obvious reasons, can have no just bearing upon this argument, have shown how invariably the people have abhorred any approach to what might, by possibility, become a legislative rabble; and not daring to trust their representatives on this matter, they, the people, have restricted them from attempting to augment their own importance or their own numbers. The jealousy was a wise one, and so the event has proved. The people have, perhaps, sometimes erred in confiding—they have rarely been mistaken when they suspected. They knew that in legislative posts of honor or profit, where the holder may be re-elected, there is, and ever must be, a current which sets almost irresistibly to the making of ingress, egress, and regress, as easy as possible. And see with what rapidity, in the short space of twenty years and little more, from the number of sixty-five, with which the people started us, we have legislated ourselves into one hundred and eighty-seven. It is now proposed to bring in a new swarm to help to protect the rights of the people, and the proposition is supported upon principles which imply that augmentation is never to stop till the end of the Union, and that the end itself cannot be far off; that we have more than half run our race already, and that thirty or forty years at farthest must bring a termination of the Republic.

Let it be remembered, said Mr. T., that Delaware signed this Federal Constitution unanimously, though it gave to Delaware but one member of this House. Rhode Island acceded, though it gave also but one to her, and that Virginia herself set her name to this Constitution when it allowed her but ten representatives to protect the interests of her people in this House—when at that time Virginia was of nearly twice her present extent, for Kentucky at that time made part of Virginia, containing not land only, but men and women in no small numbers.

As to the examples of France and England to

prove that there is nothing alarming in a numerous representation, Mr. T. said those examples had with him a contrary effect from the one intended; for that he believed it would be found, on inquiry, that when the House of Commons of England was fewer in numbers they were more independent; that every successive increase of those numbers has been a favorite measure with the Court, and that, whatever the purpose might be, the effect clearly has been, that every addition to the numbers of the House of Commons has added to the authority of the Crown.

The numbers of the present French Chamber of Deputies have been mentioned by gentlemen. Mr. T. said he understood that Chamber had been established by the Royal power. He, Mr. T., had no great opinion of constitutions which are given. Perhaps that large number of deputies had been fixed by some courtier, perhaps by Talleyrand, for the purpose of making popular representation as despicable and detestable as possible. And whoever he was, if such was his purpose, he appears to have succeeded most completely, for that, if we can trust newspaper accounts, chaos was regularity itself, compared with the sittings of the French Chamber of Deputies.

The necessity of guarding against the approaches of corruption had been mentioned. He, Mr. T., had never been so firm a believer in fourth of July orations, as to suppose that we of this country had not descended from Adam. But he could not so readily subscribe to the tactics of his colleague and friend on the right, (Mr. BALDWIN,) whom he, Mr. T., seldom heard without conviction, that the only mode in which we are to withstand the shock of corruption, is by being drawn up in files of two deep. The question, whether this disease of corruption was of domestic or foreign origin, he, Mr. T., left to the doctors; but whencesoever it may come, it was generally understood to be catching; yes, sir, as contagious as the small pox or the plague, and always the more malignant and deadly in proportion to the numbers of the body it infects. The best security against it must be the watchful eye of the people, and delinquency and treachery can never escape detection more completely than in a crowd.

But when the day of corruption comes, gentlemen suppose that there will be safety in numbers, from the impossibility of the tempter having funds to purchase so many; an argument more plausible than solid—for surely gentlemen have not yet to learn that, if ever the public good is sacrificed by bribery, the funds for the purpose will be drawn from the public purse. So that to contend for large numbers of legislators, on the hypothesis of future corruption, must be, Mr. T. believed, on that hypothesis, nothing more or less than to contend, for what, in addition to the shame and infamy of the people being bought and sold with their own money, will oblige them to pay the triple expense of their own degradation.

But is the corruption of barter and sale all that we have to guard against? Are there not other species of corruption to be dreaded? Are not faction, and violence, and error, and tumult, and fury,

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

all which have their home in immense assemblies, to be taken into the estimate? And the irresistible effect of popular eloquence upon multitudes? Why, sir, Robespierre himself would probably have been harmless as a tiger, with his claws cut off and his teeth extracted, in a legislative assembly of any tolerable size. It is notorious, that many a thundering harangue, no matter how full it may be of oh's! and ah's! and apostrophes! is absolutely thrown away upon a body of sixty or seventy men, sitting at their ease, with plenty of elbow room—when the same would have set on fire a crowd of six hundred or a thousand, chafed and fretting, and already heated by their own friction.

We need, said Mr. T., neither to go to Europe, nor attempt to dive into futurity, to enable us to decide the questions now before the House; we need only open our eyes and see what is before us, and compare it with what has been. The first Congress under the Federal Constitution had duties to perform of immense magnitude and variety—the public debts to provide for, the public credit to establish—commerce, navigation, taxes, duties, imposts—the judiciary, the different departments of the Government; whole systems to organize; things, many of which even the very names had not before been heard of; and though every thing was debated, contested, modified, yet it was completed in one session, and a code of laws given to the public, in language so simple, precise, and comprehensive, as not to be exceeded by any Congress since. That body, let it be remembered, was composed of not more than seventy men.

Compare, said Mr. T., those proceedings with ours now. He observed, that he should be sorry if any thing he was about to say should give offence to any gentleman, but he was not sent here by his constituents for the purpose of making himself agreeable. Here, said Mr. T., we are in a building pretty well filled with 187 of us—a building which he presumed was not intended to be too large for the purpose of their accommodation. It was well known that, let a member be as attentive as he pleases, (he spoke for his own region of the House only,) and the next day he will see in the papers speeches, and sketches of speeches and proceedings, which, put him upon his oath, and he will say he never heard or suspected one word of before in his life. Some of the oldest and most experienced members of the House, said Mr. T., may, and frequently do address the Chair at some length, and, for all the good we hereabouts can get from them, they might as well have been haranguing the House from the other side of the Potomac. When they wished distinctly to comprehend what was said, they must rush to the neighborhood of him who is speaking, or contrive to get in front of him; and in his, Mr. T.'s part of the House, it was as familiar for them to talk of going to hear a speech from one of their own members, as it was to talk of going to hear a sermon. The cause was evident—the primary radical cause was to be found in their overgrown numbers, and in nothing else. The members were punctual in their attendance; the committees most laborious; the

Speaker constantly at his post, and applying all the discipline which the rules of the House put into his hands. There was a remedy for the evil, an only remedy, and now in their power. We cannot destroy the freedom of debate, and select a favorite whom we will hear, and take in hand to stop another whose matter, or whose manner we may think fit to criticise and disapprove. But there is a remedy now in our hands, by reducing the number of members. Look at the effects of the different ratios mentioned, and supposing only an addition of thirty new members; of these thirty, we may safely calculate that twenty-five will be orators, *ex officio*, able and willing to discuss any subject whatsoever, little and big, at full length. No trifling matter, particularly when we recollect, if I may borrow an idea from a gentleman (Mr. RANDOLPH) who can well afford to lend, that it is not with speeches as with most things, that two and two make four; for, if you add to a club of debaters an equal number, the speaking fund of the corps is not thereby doubled merely, but rather doubled ten times over; because speeches are reproductive of speeches, and the more is said the more there remains to say. So it happens that, with our present number of 187, business can not be done in this House. It required years to hear and decide upon the commonest petition; every member must know particular cases of the hardship of delay. His, Mr. T.'s, own constituents had little to ask for; but there was one applicant from Pennsylvania, Captain O'Brien, who had thought fit to speak to him, (Mr. T.,) the merits of whose claim he did not pretend to understand; but Mr. O'Brien says, that he has been waiting at your doors, far from his home, during the last session, from the beginning to the end, and so far during the present. He says there is no difficulty in his case, except the difficulty of getting it heard in this House; that his bill once passed the Senate, and the debates prevented it from being acted on here. This, said Mr. T., is but one instance out of hundreds. Almost every page of the Journals will show cases of equal delay, or greater. Tough Amy Dardin lasted you some nine years.

So much for private petitions. As to matters of more public importance, he would beg leave to ask if they were decided with any more promptness by the House. To mention one instance only: There was, he said, the bill for establishing a uniform system of bankruptcy, asked for by multitudes of unfortunate men of all the commercial cities, who state the miseries of their situations, and solicit that relief which can be given effectually here only, and which, in other civilized commercial States, is afforded to men in their condition, as they say. Their petitions, he observed, are backed by perhaps nine-tenths of all the commercial wealth and commercial integrity of the country; yet during four, five, or six years of incessant application, they have been able to obtain neither a grant of their request nor a refusal. He was not saying that he knew how he should vote on the question, if, by the blessing of God, it should come to a vote within his two years; but he would say that perhaps there was not another

country on the globe, christian or pagan, free or despotic, in which an application to the Government, so deeply affecting the interest of multitudes of men, could not be decided on, and answered, in one-tenth part of the time.

But it had been supposed, said Mr. T., that this sluggishness of legislation was useful; that it was indeed one of our best properties; and one gentleman (Mr. RANDOLPH) had remarked that, in his opinion, we could not have spent our time better than in debating, unless indeed we had been asleep; and that, give him one hundred speeches rather than one law on the statute book. On which Mr. T. might observe that, perhaps it by no means follows, because an assembly, composed of immense numbers, must be usually slow in business, therefore it will be at all times slow and deliberate: rather the contrary; for, in critical times of great commotion, when delay and deliberation were wanted, these large bodies of men were, he believed, apt enough to proceed with a violence of haste, just in proportion to the greatness of their numbers, and, when incurable mischief was to be effected, might, from their very hugeness, be blown into a storm like that of the ocean. To escape which very evils, Mr. T. believed, representative government had been established. Yet gentlemen, in contending for a mass unwieldy and enormous on that floor, were, as it appeared to him, for bringing into our political system all the ills of all extremes without any of the opposite benefits; so that, while the nation, on one hand, is compelled to risk the abuses and corruptions of delegated authority, it is, on the other hand, not to be exempt from the evils attending the turbulence of unmixed democracy—thus lighting the candle of liberty at both ends.

Mr. T. observed, that the idea of the people being distressed at the lessening the numbers of members in Congress, was thrown away upon him. He would venture to speak for Pennsylvania, and to say that, apply the same ratio to them that you apply to the other States, the people of Pennsylvania care as little about the reduction of numbers here as they did about the number of ministers you thought fit to send to make the Treaty of Ghent. Their chief care in the matter, he believed, was to have the numbers reduced for the convenient despatch of public business.

Gentlemen, continued Mr. T., have said that this Government depends upon the opinion of the people, and he said the same. He would say, further, that the peace and happiness of millions, as he believed, must depend, not only upon the integrity of that House, but upon its credit—upon the respect and veneration of the people for it. If you forfeit, or neglect to preserve, that respect and veneration, he would venture to foretell that ere long it may not require the vigor of a Cromwell to come into the House and say, "the Lord hath no further need of you." If any measure can be ultimately more effectual than another to secure public confidence, he believed it was the reform here proposed. And he would conclude, in words once applied to the influence of the Crown in that Parliament so often mentioned,

that, in his opinion, "the numbers of this House have increased, are increasing, and ought to be diminished."

Mr. RANDOLPH said, it was a subject of unfeigned regret to him that the worthy member who had just taken his seat "was not sent to this House for the purpose of making himself agreeable;" but at the same time he must be permitted to tender to the gentleman and to the House his sincere congratulations that he had been able so successfully to attain the purpose which he may have been sent for.

The friends of a ratio smaller than that now subsisting in the bill, never introduced into this House in the first instance, the example of the British House of Commons, or of the French Constituent Assembly—for, as to the Council of Five Hundred, he confessed he had not heard it named. The example was first introduced on the other side. But in what way was it applied by himself and his friends? Was it brought forward by us, (said Mr. R.,) to show that the members of the British Parliament were independent of the ministry, or freely and equally elected by the people? Or that the members of the French Legislative Government were of a similar character? No, Mr. R. said; the question had reference, not to the composition and character of these assemblies, but to the number, which could conveniently transact business in one chamber. And, he ventured to say, if we go on with this Egyptian magnificence, in point of space at least—put us in the great temple of Thebes, or in the pyramid of Cheops, (supposing it to be hollow,) and you may reduce the House to the smallest number that could be named, and the members on the opposite sides of the apartment would hardly be in hail of one another.

It does not grow out of the size of this Hall, said Mr. R., that we cannot always have the benefit of the eloquence of the gentleman from Pennsylvania; the difficulty of hearing grows out of the architecture, sculpture, and peculiar structure of the Hall. Would any man pretend that there would be any greater difficulty in this respect, if more of the space was filled up with human bodies; if there was less air to be put in motion by the human bellows? Every one knew, on the contrary, that the most difficult place to speak in is a large empty room, where the speaker is overcome by the reverberations of his own voice. To such a degree was the echo perceptible in this Hall, that a gentleman who had been frequently referred to in a late debate, informed him the other day, that he had heard two sermons at once—the one being a reverberation of the other.

But it seemed that the British House of Commons were independent when that body consisted of a small number. Here, Mr. R. rather thought, must be some confusion of words. They were at that time *Independents*, but by no means *independent*. For it was that very small Parliament to which a celebrated individual, a great stickler, (in the beginning,) for liberty—held the language, no, he did not hold the language, which has been ascribed to him by the member from Pennsylvania

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

—but he did tell a member who said he was “seeking the Lord there,” that to his certain knowledge the Lord had not been found there for many years. I trust, said Mr. R., considering the service to which, one day in every week, this House is devoted, that that imputation will never lie against us.

The House had been told that the convention of 1786 consisted of but thirty-nine men, and the Congress which declared independence of but fifty-five members; and that, in the constitution of most of the States, the number of the popular branch of the Legislature did not exceed one hundred. The Congress of 1776, Mr. R. said, was in fact, as well as in name, a Congress: they were deputies from thirteen different States, having a character rather diplomatic than legislative, taking measures to resist an unnatural parent converted into a common foe. Could it be believed that their measures would have been less unanimous or impressive had their numbers been larger? In regard to the convention of 1787, they had not to propound a law, or a system of laws; not to hear and return answers to petitions; not to go through the *detail* of legislation; there was no necessity, therefore, of their being intimately connected with and ramified throughout society. They were to present a wise and free constitution to our acceptance or rejection; to act not as an ordinary legislature, but as the Lycurgus, the Solon, the Alfred, of the country. And, Mr. R. added, he had no hesitation in saying, that it would be as competent for a single individual to produce such a constitution, as for any assembly of individuals—Mr. Locke’s fatal and total failure to the contrary notwithstanding.

But, sir, said he, when I see how extremely difficult it is in this body to prevent almost one individual from doing every thing as he pleases—for I must consider the Executive branch of the Government as an unit—I cannot consent—and when I speak of the Executive, I refer not to the present President of the United States, but of all times past and future as well as present—I cannot consent to his argument in favor of a limited legislature, although we could no doubt procure an autocrat who would be thrown into no heats or passions, by his own friction, and would not be charged with unnecessary delays in the promulgation of his edicts, who, in the beginning, would agree to receive but a small compensation for his services—but which, he apprehended, like some other economical plans, would prove in the end the dearest we could possibly adopt. We could indeed, said Mr. R., obtain a single man, or a triumvirate, to legislate for us—to prescribe and proscribe; we could be governed as every nation which has preceded us has been governed; we could become so impatient, tired, vexed, and chafed by our own friction, to use the words of the gentleman from Pennsylvania, as, like every other nation which has preceded us, Jew or Gentile, to want to have a king set over us. How long ago is it since Denmark, possessing a free constitution—not go back to the times of The Judges; to the days of Samuel and Saul—since the people of

Denmark, impatient of delays and restraints, such as all free people must bear, being the necessary consequences of free government, in a fit of passion, pique, resentment, or versatility, threw every thing into the hands of one man—as has been virtually done in every Government but our own, and actually as well as nominally in every other, with one exception.

But, we hear a great deal of the despatch of the first Congress under this Government, which amounted only to sixty-five members. I remember that Congress well, said Mr. R.; I was present when it was organized; I spent almost every day of my then life in attending its sittings; I have no historical knowledge of its proceedings, but it is from memory—and I venture to say, that that much lauded, and applauded, Congress spent more time in debating an answer to the Presidential Speech, than this House has spent on any question which has come before it at this session; and that more speeches were delivered, and more words uttered, in amending a courtly response to the Speech from the Throne—for it was delivered from the throne—than have been wasted in this body on any question whatever. I have no hesitation in saying that, since I have been a member of this body, (and that was previous to the second census,) the despatch and readiness of this body in the transaction of public business has been as great as before the first census, when the House consisted of but sixty-five members: and it always will be the case, because men will not hurry themselves when there is nothing to do. Does the gentleman remember the debates on the charter of the old Bank of the United States? Or, to go further back, does he remember the debates on the funding system—on what were called Madison’s and Dayton’s, and Clark’s resolutions—and on Jay’s Treaty? If he does, will he say that there was greater economy of time—unless he means by that despatch, such as that of the French Convention, chopping off heads and confiscating property, without evidence, and almost without the forms of deliberation—that there was more despatch in that body than in this? In regard to these fundamental laws which struck the honorable gentleman with so much awe, and inspired him with such grand ideas—(*omne ignotum pro magnifico*)—in regard to such laws as those, Mr. R. said, his remark would again apply that a single individual is as capable of originating and submitting such plans as those, as an army (to use the gentleman’s words)—as a host of legislators. Not only such might be the case, but in this very instance such was the facts: and most of these plans, and these systems, which have attracted so much the admiration of the gentleman from Pennsylvania, were the work of a single head and of a single hand.

It was very true, Mr. R. said, in some of the States of this Union, and not small States either, the members are elected by general ticket; in the State of Georgia, for example, scarcely inferior in the extent of its superficial area to any State in the Union, and rapidly advancing in population. But, what of that? Mr. R. said, he had no doubt, if the State of Virginia were thrown into the

same situation, and a legislative or other cabal—not to say or to insinuate that such was the case in Georgia—were to make out a list of representatives, she would have as able a representation on this floor as she now possesses—perhaps more so. But, he asked, to whom would they respond? To the people? No. To the Caucus, at Richmond; as the Presidential Electors must respect the wishes of the caucus which makes out the list, rather than of the people, who vote for it. But the question, in regard to representatives, was not one merely of ability or of capacity. The first qualification of a representative ought to be integrity, fidelity—and then as much as you please, the more the better, of capacity, may be combined in the character of those who possess the first and indispensable requisites.

Of fourth of July orations, Mr. R. said he had as poor an opinion as the gentleman from Pennsylvania could possibly have. He had generally found them extremely frothy, and in the very worst taste of composition; elaborate enough, Heaven knows, without, as Milton says, being exact. I have never heard one of them, though, said Mr. R., in my life. I have tried to read many, and I never could get through with one. God forbid that the worst orations, in the very worst taste, on this floor—in this House—should ever be liable to the criticisms to which some fourth of July orations are obnoxious.

Mr. R. was not sure, he said, whether he comprehended the gentleman from Pennsylvania, in the strange rule of proportion which he had laid down for increasing "the talkative fund" of a legislative body, which he had told the House does not grow in the ratio of numbers, but depends upon a compound ratio, the credit of the invention of which was entirely due to the gentleman from Pennsylvania. By doubling the representation, it seemed, the "talking fund" was not only to be doubled, but ten times doubled. Mr. R. said he had heard of doubling brandy or doubling whiskey, in this country, but a spirit of the strength produced by the sort of doubling spoken of by the gentleman from Pennsylvania was enough to raise an insurrection in the most orderly and quiet people on earth.

But, it seemed, the hard case of the bankrupts was brought up as an argument against the capacity of this House for business—and that of this other petitioner, whose name he could not catch—O'Brien, was it? The right of petition, Mr. R. said, implied the right of this House to refuse to grant the prayer of a petition, which they sometimes took the liberty to do. If he recollected right, an act was passed, no very long time ago, for the relief of the very respectable old lady whose name the gentleman from Pennsylvania had introduced into this debate, and, in so doing, had anticipated him, in this instance only. On the right of petition he had intended to refer to this very case, as showing that the game of petitioning was one in which the applicant might win, but could not by any possibility lose; and that that may be extorted by importunity which justice had repeatedly denied. He recollected an-

other case of a very different description; for, in Dardin's case, actual and heavy loss had been incurred, and the only question was, who was bound to make it good? He recollected the case of a band of petitioners who were dismissed from this House—no, sir, said Mr. R., they came before this House, with the brand of infamy in their forehead. They were repelled with ignominy, repeatedly repelled, but they carried their point at last, how, I cannot tell, for I had just ceased to be a member. They got the land, and left us (as another case) the argument.

With regard, however, to these bankrupts, he could only say, that their case was an extremely hard one, because the only advocate who had been heard in their behalf, except the gentleman who introduced the bill, was not certain whether or not he should vote in their favor; and, in fact, if any sort of inference were to be drawn from what he did say upon the subject, it would be, that he should vote against them. This impatience of the gentleman, on their account, was something like the impatience of the executioner for his victim—although we have all seen and recollect the print of the finishing stage of the life of Master Thomas Idle, where Jack Ketch sits on the gibbet smoking his stump of a pipe with perfect resignation to his victim's fate; certain that, in due time, the prey will be handed over to the finisher of the law.

But, the honorable gentleman has said, we are for lighting the candle of liberty at both ends. It is true, said Mr. R., that some of us do sometimes, for the entertainment of the House and the public, endeavor to serve up a roasted Secretary, and get a sound basting for our pains. It is true, that the fat is sometimes thrown into the fire, and our own dinners gain nothing thereby. I hope, however, we shall not light the candle of liberty at both ends, or at either end; for, if we do, unless it be unlike all other candles, it must sooner or later burn out.

Nothing, it seemed, was so much feared by those who were for a reduction of the ratio, as the loss of their seats here; and yet it took a man four years to be heard! [This was a rate of travelling of sound, by the way, of which Mr. R. said he had never before heard.] Not a tear, says the gentleman, will be shed at the loss of those who may happen in this case to lose their seats. I should be very sorry for it, said Mr. R., if the State of Pennsylvania should thereby lose the services of the gentleman on my left, (Mr. Ton.) No eye to shed a tear for his loss! That would be an unheard-of obduracy, surpassing that of Robespierre himself, or even of the tigers, or lions rather, whose teeth and claws the gentleman had been kind enough to draw in introducing them into this House.

But the House had been told, that in a multitude of counsellors there is—not wisdom, but foolishness; that corruption is hid; that it dives, like another pickpocket, into the crowd, and lies snug. This was as great a secret, Mr. R. said, as that of Bayes in the farce, who introduces an army *incog.*; and recalls poor old Lear's device, who

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

attacks his enemies with "a troop of horse, shod with felt," to kill! kill! kill! As for my own seat, sir, said Mr. R., there is but one circumstance for which I value it, and that is, the tenure by which it is held. And I can assure the gentleman from Pennsylvania, that, even although I should continue to pour more than my quota into the "speaking fund," to which he too has largely contributed; and though the fifty thousand souls whom I represent should continue to increase, I have no apprehension of thereby losing my seat. And I say this without arrogance—speaking of that apprehension or fear which, as the law says, can come over men of ordinary firmness of nerves.

Mr. R. said he had felt himself called upon to make these remarks. He was not "*ex officio*" an orator, as the gentleman had described some members of this House to be; he was not even an orator by trade; he never got even fifteen shillings for a speech, which he believed was the lowest fee allowed to the lowest hack-attorneys of the profession; he was not even a self-constituted orator; he came here in behalf of thirty—no, of more than fifty thousand souls; and, though he could not boast of being the "man of the people," he would insist on being the people's man as long as he was here, and on his right of resisting every sort of influence—executive, judicial, or any other that might show itself—unless it came undisguised, open, fair, and unmasked. I hope, said Mr. R., to use the language employed by the gentleman from Pennsylvania, that he will permit us to make *ingress* into a Committee of the whole House on this bill; that we shall there make *progress*; and, speedily making *egress* therefrom, we shall allow the House to make *regress* into the same Committee, on some other bill.

Mr. KEYES made a few observations expressive of his belief that it would be conducive to the benefit and safety of the nation to have the ratio so high as to diminish the numbers of the House. Under that impression he had proposed a large ratio; but he found himself in so small a minority that he began to doubt whether he was correct. No one would think that he (Mr. K.) would speak a word or influence a vote which could operate against the liberties of the people; for in his younger days he had contributed to establish and promote them. He was now in favor of committing the bill for the purpose of striking out forty thousand and inserting thirty-eight thousand five hundred. The difference was small, and the latter number would accommodate several of the smaller States which the former would exclude. He believed that taxation and representation ought to go hand and hand. He recollected that, before the unnatural war which Britain waged against her colonies, this principle was earnestly contended for by the latter; and, in order to give it efficacy, it was required to apportion the representation as nearly as possible among the people that were to be taxed.

Mr. K. also replied to the remarks of Mr. Ross, and concluded by expressing his hope that the motion for recommitment would prevail.

Mr. MOORE, of Alabama, remarked, at this pe-

riod of the debate it required an apology to the House for intruding upon its patience. He was in favor of the ratio of fifty thousand, as proposed by the gentleman from Pennsylvania, (Mr. T^{OD}.) It was not indeed the number which he should prefer, nor would he deny that he was actuated in that preference by motives that looked to the State of Alabama. He said, that, were the ratio of forty thousand to succeed, it would leave that young and thriving State with a fraction of more than thirty thousand over and above that part of the population that had not been returned under the census, and which was believed to exceed twelve thousand; and in ten years he believed the ratio would operate trebly harder upon that State than on any other in the Union. By the time of another enumeration it would probably possess a population of one hundred and fifty thousand persons; and a ratio so disproportionate could not, in his opinion, be with propriety adopted.

The question then recurred on Mr. T^{OD}'s motion; whereupon Mr. T. modified his said motion by substituting "forty-four thousand" in lieu of "fifty thousand," as originally proposed by him.

Mr. LITTLE then moved to amend the motion made by Mr. T^{OD}, by striking out "forty-four" and inserting "forty-five;" which, being negatived, without a division, the question was taken on the motion by Mr. T^{OD} as modified, and determined in the negative—yeas 61, nays 104, as follows:

YEAS—Messrs. Abbot, Alexander, Barber of Ohio, Blair, Borland, Brown, Cassedy, Condict, Conkling, Crafts, Crudup, Darlington, Denison, Edwards of North Carolina, Findlay, Gist, Gross, Hall, Hawks, Hendricks, Hubbard, F. Johnson, Litchfield, McCoy, McSherry, Matlack, Mattocks, Mercer, Metcalfe, Montgomery, Moore of Pennsylvania, Morgan, Murray, Patterson of Pennsylvania, Phillips, Plumer of Pennsylvania, Rankin, Rich, Ruggles, Sanders, Scott, Arthur Smith, Spencer, Sterling of Connecticut, Sterling of New York, Stewart, Swan, Tatnall, Taylor, Tod, Tracy, Trimble, Vance, Van Wyck, Walker, Walworth, Williams of North Carolina, Wilson, Wood, Woodcock, and Woodson.

NAYS—Messrs. Allen of Massachusetts, Allen of Tennessee, Archer, Baldwin, Ball, Barber of Connecticut, Barstow, Bassett, Baylies, Bayly, Bigelow, Blackledge, Breckenridge, Buchanan, Burrows, Butler, Cambreleng, Campbell of New York, Campbell of Ohio, Cannon, Causden, Chambers, Cocke, Colden, Conner, Cushman, Cuthbert, Dane, Dickinson, Durfee, Dwight, Eddy, Edwards of Connecticut, Eustis, Farrelly, Floyd, Fuller, Garnett, Gebhard, Gilmer, Gorham, Hardin, Harvey, Hemphill, Herrick, Hill, Hobart, Hooks, J. T. Johnson, J. S. Johnston, Jones of Virginia, Kent, Keyes, Kirkland, Lathrop, Leftwich, Lincoln, Little, Long, Lowndes, McNeill, Mallary, Matson, Milnor, Mitchell of Pennsylvania, Moore of Virginia, Moore of Alabama, Neale, Nelson of Massachusetts, Nelson of Maryland, Nelson of Virginia, Overstreet, Patterson of New York, Pierson, Pitcher, Plumer of New Hampshire, Poinsett, Randolph, Reed of Massachusetts, Reid of Georgia, Rhea, Rochester, Rogers, Ross, Russ, Sawyer, Sergeant, Sloan, S. Smith, W. Smith, Alexander Smyth, J. S. Smith, Stevenson, Stoddard, Swearingen, Thompson, Tucker

H. OF R.

Apportionment Bill.

FEBRUARY, 1822.

of South Carolina, Upham, Whipple, White, Whitman, Williams of Virginia, Williamson, and Wright.

The question then recurred and was taken on the motion of Mr. MALLARY to recommit the bill to a Committee of the whole House, and was also determined in the negative—yeas 63, nays 99, as follows:

YEAS—Messrs. Allen of Tennessee, Baldwin, Ball, Barber of Connecticut, Bassett, Blair, Burrows, Cannon, Cassedy, Cocke, Condict, Conner, Crafts, Denison, Edwards of Connecticut, Edwards of North Carolina, Floyd, Garnett, Gist, Hardin, Herrick, Hooks, F. Johnson, J. T. Johnson, Jones of Tennessee, Keyes, Long, Lowndes, McDuffie, McNeill, Mallary, Matlack, Mattocks, Mercer, Moore of Virginia, Moore of Alabama, Morgan, Nelson of Virginia, Overstreet, Poinsett, Randolph, Rhea, Rich, Russ, Scott, Sterling of Connecticut, Sterling of New York, Stevenson, Stoddard, Swan, Swearingen, Tod, Tucker of South Carolina, Tucker of Virginia, Van Wyck, Walker, Walworth, White, Williams of North Carolina, Williams of Virginia, Wilson, Woodcock and Woodson.

NAYS—Messrs. Abbot, Alexander, Allen of Massachusetts, Archer, Barber of Ohio, Barstow, Baylies, Bayly, Bigelow, Blackledge, Borland, Breckenridge, Brown, Buchanan, Butler, Cambreleng, Campbell of New York, Campbell of Ohio, Causden, Chambers, Colden, Conkling, Cushman, Cuthbert, Dane, Darlington, Dickinson, Durfee, Dwight, Eddy, Farrelly, Findlay, Fuller, Gebhard, Gorham, Gross, Hall, Harvey, Hawks, Hemphill, Hendricks, Hill, Hobart, Hubbard, J. S. Johnston, Kent, Kirkland, Lathrop, Leftwich, Lincoln, Litchfield, Little, McCoy, McSherry, Matson, Metcalfe, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Murray, Neale, Nelson of Massachusetts, Nelson of Maryland, Patterson of New York, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Rankin, Reed of Massachusetts, Reid of Georgia, Rogers, Ross, Ruggles, Russell, Sanders, Sawyer, Sergeant, Sloan, S. Smith, Arthur Smith, W. Smith, Alexander Smyth, J. S. Smith, Spencer, Stewart, Tatnall, Taylor, Thompson, Tracy, Upham, Vance, Whipple, Whitman, Williamson, Wood, and Wright.

Mr. Woodson then moved that the said bill be recommitted to a select committee, with instructions to strike out "forty thousand" and to insert "fifty thousand."

A division of the question on this motion being called for, the same was put on the first member thereof, viz: that the said bill be recommitted to a select committee, and was determined in the negative.

Mr. CAMBRELENG then moved the House do reconsider the vote taken on the motion of Mr. MALLARY, "that the said bill be recommitted to a Committee of the whole House."

And on the question, Will the House reconsider the said vote? it was determined in the negative; when

Mr. JONES, of Tennessee, moved that the said bill be committed to the Committee on the Judiciary, with instructions to amend the same by striking out "forty thousand" and inserting "thirty-eight thousand five hundred."

A division of the question on this motion being

called for, the same was put on the first member thereof, to wit: that the said bill be committed to the Committee on the Judiciary; and was determined in the negative.

The second member of said motion fell of course.

Mr. SMYTH then moved that, so far as relates to the bill now under consideration, the operation of that rule of the House which provides that "any member may call for a division of a question when the sense will admit of it," be suspended.

And on the question, Shall the said rule be suspended as aforesaid? it was determined in the negative.

Mr. FLOYD then moved that the bill be committed to the Committee of Ways and Means, with instruction to amend the same by striking out "forty thousand" and inserting "thirty-eight thousand five hundred;" when

Mr. CONDUCT moved to amend that motion by substituting the Committee of Revisal and Unfinished Business for the Committee of Ways and Means.

The question being stated on this amendment—

Mr. RANDOLPH again rose to address the House. This bill went, as had been more than once said, and could not be too often said, to dismember the representation of none but the old States of this Confederacy. If ever there was a Government under the sun, where the greatest degree of liberality had been exercised by the Government towards—he would not say its provinces—and yet, said Mr. R., we have acquired provinces, not that we might rule them with a rod of iron, but that they might govern us—if ever there was a Government that deserved, from the new accessions to the Confederacy, generosity, tenderness, liberality, gratitude, the Government of the old States is that Government. But, said Mr. R., we ask nothing of that sort; we ask nothing but justice. We say give us law, if you please sheer law, but give us *law*. And then, sir, we shall be met with a declamation—coming, I must be permitted to say, from that quarter with not the best of all possible graces—on the unrepresented population of the new and rising States—yes, the rising, contradistinguished from the sinking, States; once *The Rising States* was a toast in our sailors' mouths—a sign-board for our taverns; familiar in men's mouths as household words; but now a new distinction is taken between the rising and the sinking States. And from whom, said Mr. R., do we hear of this unrepresented population? From the States beyond the mountains—beyond the Mississippi—not, indeed, beyond Aurora and the Ganges, but where the setting sun allays his golden axle, not in the steep Atlantic stream, but in the Pacific; from States which, with a population of 60,000 souls, have for years been admitted in the Senate to a voice potential as the greatest.

Mr. R. said he would again call the attention of the elder brethren of the Confederacy—the political Esaus of our tribe—to the predicament in which they stand. We have heard, said he, a

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

great deal of the wisdom of the men who framed the Constitution under which we now sit. I have much faith in their wisdom, an unshaken and unchangeable faith in their virtue; but I will believe experience against the word of Solomon himself. I then say that, in my feeble apprehension, they committed an error, fundamental and fatal, as practised upon since by their successors. They made a provision for the admission of new States into the Union. And of what nature? They went across the Ohio—they did not dream at that time of going beyond the Mississippi and the Rocky mountains—they marked out certain diagrams on the map, within the actual limits of which no white man had dared to show his head; and they said, in the simplicity of their hearts, that, when these ideal territories should possess each a population of 60,000 souls, they should be States, and should have an equipollent weight in the other branch of the Government, and a weight, in the election of President and Vice President of the United States, compounded of their representation there and here.

This, Mr. R. said, brought him to another point. He never had voted but for one amendment to the Constitution of the United States; and he had lived to see the time when he was by no means sure that he gave a wise (though he was perfectly certain that he gave an honest) vote on that occasion. Mr. R. said he was one of those so little disposed to find fault with, and innovate upon, established government, as to have rendered himself obnoxious to the opposite charge of upholding old abuses. Yet he should not be sorry, he said, to see this provision in the Constitution—that whoever proposed an amendment to the Constitution should, as in some other States that we have read of, do it with a halter about his neck, and, if the proposition did not succeed—if it failed to be adopted—that the mover should be instantly tucked up. Do you not see, said Mr. R., that that change in the Constitution respecting the manner of electing the President and Vice President of the United States, established by these wise men, not of Greece, but of America—of whom he acknowledged himself to be one, and acting under a recent and flagrant attempt at abuse—has a tendency to enhance the chances of its being to be decided by our vote in this House, where we vote on that question, not according to representation, but according to States? And, as you diminish the number of Electors, (by limiting the number of representatives,) you not only increase directly the influence of the smaller and the new and unpeopled States, in the Presidential election, but also the probabilities of its being brought here for decision. And is it disrespectful—can it be out of order—can it be thought harsh or indecorous, unbefitting the gravity and dignity of this assembly; if, when men start up like those from the dragon's teeth of Cadmus, obtruding or obtruded on the Presidential office—is it not, indeed, proper that we the people, who stand in cliental relation to no man—who are no man's retainer—should take measures to guard against the election being brought here? And in what way is it now pro-

posed to be guarded against? By diminishing the electoral voice of the new States—of the new men—of the *novi homines*—electors or would-be electors? No, but by diminishing that of the oldest States of the Union. I will not speak of my own State, said Mr. R., I turn to the case of Connecticut, the birth-place of Roger Sherman, (and, if she had contributed no more, she had, in his person, paid her full contingent to the wisdom and patriotism of the country;) to that of Vermont, neither an old or a new State, but who, tried by the test of valorous resistance, in our Revolutionary struggle held as proud a rank as any; to that of Delaware—he had not looked over the whole list, he could not look it over, like a crowned head conning over the condemned list, and designating them that should be left for execution. He could not say to each and all of the States, whose representation is to be diminished on this floor, you are on the decline; you smack of antiquity; you must content yourself with a lower station than you have hitherto occupied; to say to Virginia, hereafter you must not think of—what? Of possessing a comparative, relative influence? No; not only that she shall lose that rank she has heretofore held in the Union, but that she shall lose the little influence she heretofore possessed. This, Mr. R. said, might be wisdom in the eyes of others, but, in his opinion, it was a fundamental error in the Government of this country, which this House, instead of taking means to palliate, was now taking every step in its power to aggravate and enhance. A vast augmentation of weight in this House, and elsewhere, was now to be given to some of the States, and, of all the States in the Union, to the State of Ohio; which State—but not by his vote, he believed he stood alone on that occasion—he would not dress himself in borrowed plumes—he would not claim credit for others' liberality—the subject had been referred to a committee of which he (Mr. R.) was chairman. For some cause, not necessary to state, it was put afterwards into other hands; in fact to two individuals was intrusted the marking out the boundaries of that State, out of which arose the existing dispute between her and Michigan. They had a *carte blanche*, and they won the game accordingly. That great State, one of the greatest intriguers who ever wormed himself into any department of this Government, said he was laying off for the purpose of clipping the wings of Virginia. Little did I dream, said Mr. R., that I should even politically live to witness the fulfilment of this prediction; although I foresaw it must come, and took my measures accordingly; for our wise men, like poor old Lear “every inch a King,” not only gave to Ohio weight in the other branch of the Legislature, but they separated that State forever from us, by distinctions of principle, and interest, and feeling, that are insurmountable. I speak of facts, and I beg gentlemen not to misconceive the spirit in which I speak. Is it a spirit of hostility? Not at all. Of crimination? By no means. Of re-crimination? By no means. But by that act, the great river Ohio, in itself a natural limit—not a line drawn by your surveyors, who at that time

did not dare to go over and chop with a tomahawk a line in the vast forests, then imaginary States—that natural limit is made (I speak in the spirit of foresight) the permanent and unfading line of future division, if not in the Government, in the councils of the country; and, said Mr. R., when I say, if not in the Government, I know what I am saying.

On this occasion, and at this time of the evening, Mr. R. said, it was in vain to look at his notes. He had not consulted them, and he would not. But he begged of the House—he entreated of its discretion, its foresight, its patriotism, to pause before it took this step. He remembered well the predictions, the sad vaticinations, on the acquisition of Louisiana—unquestionably, in point of extent and importance, the greatest acquisition ever peacefully made by man. Yes, he said, peacefully; it was made by a peaceful conqueror. You tried your hand afterwards at acquisition, after the old European fashion—and what did you get? The *Status ante bellum*? We did, sir—and much better for us than the *uti possidetis*; for we held not an inch of the enemy's territory, while he had some few feet of ours. That by way of parenthesis. We were then called on, Mr. R. continued, by some of the very men who had a hand in framing the Constitution, and whose wisdom has been so loudly and not unjustly applauded, to pause before we signed that treaty, admitting vast regions of country into the Confederation. We were forewarned, but not forearmed, said he, as is proved by what we are now experiencing—what we are now beginning to experience, I repeat—for we are yet in the green tree; and, when the time comes when the whole country is filled up, if these things are now done in the green tree, what then will be done in the dry? I, for one, although forewarned, was not forearmed. If I had been, I have no hesitation in declaring, that I would have said to the imperial Dejanira of modern times—take back your fatal present! I would have staked the free navigation of the Mississippi on the sword, and we must have gained it.

Mr. R. said, he knew that the words of one who was more choice in his expressions than he was were capable of misconception: accustomed to meditate much on his opinions, and not at all on the language that conveyed them—relying upon such as might offer itself at the moment, and which he had always found the best that he could invent—it ought not, perhaps, to be matter of surprise that he should fall into occasional inadvertency, that might give rise to unintentional misapprehension, or unintended offence. But, although in the habitual use of many, perhaps too many words, (for a wise man is frugal of his money and his words, while the fool is prodigal of both,) Mr. R. said, he never uttered one to the best of his recollection in his life, without having some precise and definite signification attached to its very shade of meaning. But he should not be surprised at being misrepresented, (not here; he expected no such foul play in these walls,) and honestly misrepresented, as being the advocate of disunion. He was no such thing; but they are so, and the

most persuasive and powerful advocates, too, who go to cut down the older members of the Confederacy that they may be exalted by their depression. The honors and influence of the rising States cannot be taken from them. Why, then, put this stigma upon us, the sinking States? Why brand us? Why draw the line of demarcation, and say to us, as to the goats, go ye to the left? Recollect that there were thirteen States when they began. Are there not now twenty-four of them—for it had become difficult to keep count of them? Are there not two and twenty votes given in the Senate by States which were not members of the Confederacy when the Constitution was adopted? There is, in fact, a majority; for there were two of the old States which, at that time, were out of the pale of the political church. Was this not worthy of consideration—not of the men who apply geometry and arithmetic to politics, with which they have no assignable relation—you may measure your land by geometry if you will, and get paid for it by arithmetic if you can—but, as to their application to politics, it never entered into the head of any but of a moon-struck madman, or of a good, easy, quiet sort of a gentleman, who, meaning no harm to others, always took his full share of whatever harm was going. It strikes me, said Mr. R., that we are pursuing theoretical principles, which ought never to have been permitted to find their way into the Government, to lengths from which eventually the most abstract and metaphysical must recoil; for, if they do not, in the madness of their projects and of their strength, they will pull the House over their heads. We are pursuing them to a length subversive even of the principles of our Government, and of every principle of union. If any man raises against me the hue and cry of being an enemy to republicanism, I cannot help that; for, if my life will not speak for me, my tongue cannot. The principles to which I allude are at once the principles, and not the principles of our Government. How comes it that the State of Delaware has two members in the other House? That she has had, ought to have, and I trust will continue to have, four Electors for President and Vice President? What does that right depend upon? Abstract theories? No, sir. Upon what, then, does it depend? Upon common sense—although no science, fairly worth the seven, and worth all the politics of any men who study politics in the closet instead of the busy haunts of men—of professors of an university turned statesmen. How comes Virginia to have so many representatives whom we have heard called, with as much propriety as decorum, black representatives; of whom, said Mr. R., I am one—would we had more! How is that? Either she has a right abstractedly and metaphysically to a representation of her numbers of that description, or she has not. If they ought to be represented as people, we had a right to claim a greater representation than we have; which right I think we ought to have insisted upon as a *sine qua non*, and which is as clear as noon day; for, from the very circumstance of this population, the States where it prevails must necessarily be weaker in actual

FEBRUARY, 1822.

Apportionment Bill.

H. OF R.

numbers than others where it is not found, as well as from other causes which are purely physical—causes arising from climate and from soil. But, Mr. R. said, he should be told, this was done in a spirit of compromise. And what, said he, is this spirit which I now endeavor to evoke but that very spirit which is the key of the Constitution, and unlocks all its difficulties? But even that did not call upon us at its commencement to create new States beyond the Ohio—for no one then dreamed of beyond the Mississippi—of geographical diagrams there, which, in the short space of thirty years, were to give us law here.

There was another point of view in which Mr. RANDOLPH, as a Representative of Virginia, invoked the justice of the House. We were improvident enough, said he, to squander our estates, and I thank God we have remaining sense of dignity enough not to beg for crumbs at the door of that mansion which, with its fair and boundless domain, was once our own. But, have there not been propositions enough to this House for the relief of the thousands and tens of thousands who removed to that country, and got those lands which once were ours? And has not relief been given? And was it not notorious, that the effect of this measure of relief had been to benefit the rich at the expense of the poor? All, or nearly all, the poor people who moved with a view to actual settlement, had paid for their land, and had been made to pay their debts; the last bed had been sold from under them, and they had gone like Hagar into the wilderness; and now we must have another law, for those who drink champagne and sleep on down, who drive their carriages and live in palaces, &c. The poor man had been made to pay to the uttermost farthing the purchase money for his little tract of land, whilst large companies of speculators—God forbid that any connexion of theirs should be so ramified as to be felt here—were relieved, by act of Congress, of their debts to the Government. Mr. R. here illustrated the effect of the legal provisions on this subject, by reference to analogous transactions in private life, and took a brief review of our land system, down to the act of the last session, for the relief of debtors for public lands. And at whose expense, he asked, was this boon to the land-jobber granted? At the expense of every man who was not a land-jobber. Had not Congress been obliged to resort to loans, operating as a mortgage on the whole land and labor of the country, to defray the expenses of the Government; and were not taxes paid by the whole community, the only means by which they could be repaid, &c.? But, Mr. R. said, he had been led astray from the subject. When it had depended on the voice of the old States, the new States had never called and found them wanting in fraternal aid; for, not only was the relation fraternal, but, by a complete reverse, said he, we have become younger brothers: we are not considered as entitled even to equality in that character. He knew how difficult it was for any man, who had much at heart on a subject, to know when he had enough. This was a cause, Mr. R. said, in which

he would take a great deal of beating before he could have enough. For his part, he said, if he had his choice, he would rather take the chance of war with the Holy Alliance of Europe, than lose one representative on this floor from the State of Virginia. We may come out of the war, as we have come out of that which we entered into with less preparation than ever war was entered into since the flood, with something of credit and honor at least, if not with an accession of territory. We cannot come here, shorn of our beams, without a sense of degradation. We shall not be even Archangel ruined. If any one should mistake me, said Mr. R., so far as to suppose me to be, as one gentleman says, scuffling for a district, he knows little of Calista. He considered that district which he represented as likely to be undisturbed by the diminution of the number of Representatives of the State of Virginia as any other; but, if it should please the wisdom of the legislature of that State to change it, he had nothing to say against it—No, nothing. Save us our representation, said he, and give us what ratio you please. It could not be said that he had been influenced by local—for he would not injure his character as a man who talks English, so as much as to say sectional considerations; because he had voted for numbers which would enhance the relative influence of the North. All that he asked was, that some ratio should be fixed upon which would save the State of Virginia from the loss of any part of her representation on this floor. And, because it would have an effect different from that which he had endeavored to avert, he protested against the passage of this bill.

In the course of his remarks, Mr. R. said, that while we gave to merit merit's due—while we erected statues to our heroes and patriots, no man had ever dared to propose their elevation, not by an advancement of rank, but by degrading their companions in arms. It was, of all means of distinction, the most invidious and odious. It was not the picture of envy, but of cruelty and scorn, triumphing not so much in our good fortune, but exulting in the misfortune of others—and yet these proscribed and derided States had, besides throwing off swarms of emigrants, actually increased—and now they were to be told that the same number of representatives and electors, which were not too many ten even twenty years ago, to express their feelings and represent their interests, were now too many.

He concluded by saying he was sensible that the profound and flattering attention, with which he had been so honored by the committee, was due to the intrinsic interest of the subject, and not the manner in which only he had been able to treat it. He had uttered some, perhaps, bold political truths, but the occasion called for them. It was indeed high matter, &c.

After Mr. R. concluded—

Mr. ALEXANDER SMYTH called for the previous question, which was demanded by a majority of the members present; whereupon, the previous question was taken in the form prescribed by the rules and orders of the House, to wit: "Shall the

H. OF R.

Proceedings.

FEBRUARY, 1822.

main question be now put?" and passed in the affirmative.

The main question was then put, to wit: Shall the bill pass? and passed in the affirmative—yeas 100, nays 58, as follows:

YEAS—Messrs. Abbot, Alexander, Allen of Massachusetts, Archer, Baldwin, Barber of Ohio, Barstow, Baylies, Bayly, Borland, Breckenridge, Buchanan, Butler, Cambreleng, Campbell of New York, Campbell of Ohio, Causden, Chambers, Colden, Conkling, Conner, Cushman, Cuthbert, Dane, Darlington, Dickinson, Durfee, Dwight, Eddy, Eustis, Farrelly, Findlay, Fuller, Gebhard, Gilmer, Gorham, Hardin, Harvey, Hawks, Hemphill, Hill, Hobart, Hubbard, J. T. Johnson, J. S. Johnston, Kent, Kirkland, Lathrop, Leftwich, Lincoln, Little, Lowndes, McCoy, McSherry, Matson, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Morgan, Murray, Neale, Nelson of Massachusetts, Nelson of Maryland, Patterson of New York, Patterson of Pennsylvania, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Reed of Massachusetts, Rochester, Rogers, Ross, Ruggles, Russell, Sawyer, Scott, Sergeant, Sloan, S. Smith, Arthur Smith, W. Smith, Alexander Smyth, J. S. Smith, Spencer, Stewart, Swearingen, Tatnall, Taylor, Thompson, Tracy, Upham, Vance, Warfield, Whipple, Whitman, Williams of Virginia, Williamson, Wood, and Wright.

NAYS—Messrs. Allen of Tennessee, Ball, Barber of Connecticut, Bassett, Blackledge, Blair, Brown, Burrows, Canpon, Cassidy, Cocke, Condict, Crafts, Denison, Edwards of Connecticut, Edwards of North Carolina, Floyd, Garnett, Gist, Gross, Herrick, Hooks, F. Johnson, Jones of Tenn., Keyes, Long, McDuffie, McNeill, Mallary, Matlack, Mattocks, Mercer, Metcalfe, Mitchell of South Carolina, Moore of Virginia, Moore of Alabama, Nelson of Virginia, Newton, Overstreet, Poinsett, Randolph, Rhea, Rich, Russ, Sanders, Sterling of Connecticut, Stevenson, Stoddard, Swan, Tod, Tucker of South Carolina, Walker, Walworth, White, Williams of North Carolina, Wilson, Woodcock, and Woodson.

Ordered, That the title of the bill be "An act for the apportionment of Representatives among the several States according to the fourth census," and that the Clerk carry the said bill to the Senate, and ask their concurrence therein.

THURSDAY, February 7.

Mr. MERCER presented a petition of the corporation of Georgetown, in the District of Columbia, praying that certain additional powers therein specified, may be granted them; which was referred to the Committee for the District of Columbia.

Mr. NEWTON, from the Committee on Commerce, reported a bill for the relief of Isaac Collyer, and others, which was read twice, and committed to the Committee of the Whole.

Mr. STERLING, of New York, from the Committee on the Public Lands, to which was referred the bill from the Senate, entitled "An act concerning the lands and salt springs to be granted to the State of Missouri for the purposes of education, and other public uses," reported the same without amendment, and it was committed to a Committee of the Whole.

Mr. STERLING, from the same committee, to which was also referred the bill from the Senate, entitled "An act to authorize the Commissioner of the General Land Office to remit the instalments due on certain lots in Shawncetown, in the State of Illinois," reported the same without amendment, and it was committed to a Committee of the Whole.

The House proceeded to consider the resolution submitted yesterday, by Mr. JOHNSTON, of Louisiana, and the same being read, was again ordered to lie on the table.

The House then took into consideration the resolution offered yesterday, by Mr. BALDWIN, calling for a comparative view of the expenses of the Army for a series of years; which was modified by the mover, on suggestion of Mr. FLOYD, so as to include within its scope the Military Academy also.

Mr. CUSHMAN submitted the following resolution, viz:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of opening, or completing and maintaining a military and post road from some point on the Kennebec river, in Somerset county, to the highlands in Maine, of the line which separates Lower Canada from the United States.

The resolution was ordered to lie on the table.

On motion of Mr. FULLER, the Committee on Naval Affairs were instructed to inquire into the expediency of providing by law, for the discipline and instruction of the midshipmen and other warrant officers of the Navy of the United States when in port, or not engaged in active service.

On motion of Mr. EDWARDS, of Connecticut, the Committee on the Public Buildings were instructed to inquire into the practicability of making such alterations in the present structure of the Hall of the House of Representatives as shall better adapt it to the purposes of a deliberative assembly.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives requesting the President to "cause that House to be informed whether the commissioners appointed to lay out the continuation of the Cumberland road from Wheeling, in the State of Virginia, through the States of Ohio, Indiana, and Illinois, to the Mississippi river, have completed the same, and if not completed, the reason why their duties have been suspended," I transmit a report from the Secretary of the Treasury, which furnishes the information desired.

JAMES MONROE.

WASHINGTON, Feb. 7, 1822.

The Message was referred to the Committee on Roads and Canals.

The SPEAKER presented a further Message from the PRESIDENT OF THE UNITED STATES, transmitting a report from the Secretary of War, relative to the cannon, howitzers, military stores, &c., belonging to the United States; which, on motion of Mr. TAYLOR, was referred to the Committee on Military Affairs.

FEBRUARY, 1822.

The Northern Boundary.

H. OF R.

The SPEAKER presented a communication from the Commissioners of the Sinking Fund; which, on motion of Mr. BASSETT, was referred to the Committee of Ways and Means.

The SPEAKER also presented a communication from the Comptroller of the Treasury, transmitting abstracts of balances due by individuals to the Navy Department; which, on motion of Mr. LITTLE, was laid on the table.

NORTHERN BOUNDARY.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives:

I transmit to the House of Representatives a report from the Secretary of State, on the subject required by the resolution of that House of the 22d ultimo, with the documents which accompanied that report.

JAMES MONROE.

WASHINGTON, February 6, 1822.

DEPARTMENT OF STATE,
Washington, February 5, 1822.

The Secretary of State, to whom has been referred the resolution of the House of Representatives requesting of the President of the United States such information as he may possess, in relation to the progress made by the Commissioners under the fifth article of the Treaty of Ghent, in ascertaining and establishing that part of the boundary line between the United States and the British provinces, which extends "from the source of the river St. Croix to the northwesternmost head of Connecticut river;" how much of the abovementioned line has been actually surveyed; whether a map, duly certified, has been returned of any survey made, and whether the Commissioners of the two Governments have had any meetings within a year past; has the honor of reporting to the President that those Commissioners have, in the course of the year, had meetings at New York, from the 14th of May to the 9th of June; from the 1st to the 14th of August; and from the 20th of September to the 4th of October; at which last meeting, a difference of opinion upon two points having occurred between the Commissioners, they adjourned, to meet again on the first Monday of April last.

Copies of the journals of the Board at their meetings, and a part of the arguments of the Agents of the two Governments on the questions submitted to the Commissioners, have been received, and are at this Department. No authenticated map has been returned, the reason of which is shown in a letter from the Agent of the United States, of the 14th of October last, and a letter from the Commissioner, of the 20th November, copies of which are herewith submitted, and which exhibit the progress of the Commission until the time of their last adjournment.

JOHN QUINCY ADAMS.

Mr. Bradley, Agent of the United States under the fifth article of the Treaty of Ghent, to the Secretary of State.

WESTMINSTER, October 14, 1821.

SIR: I have the honor to enclose a copy of the journal of the proceedings of the Commissioners under the fifth article of the Treaty of Ghent, at their meeting, which I recently received from the Secretary of

the Board. I have also the honor to forward by mail the last argument of the British Agent, in reply to my answer to his first argument, which completes the arguments growing out of the British claim.

The copy of the claim and first arguments on the part of the United States, has been heretofore forwarded. The answer of the British Agent, and my reply thereto, are so voluminous that the Secretary has not yet been able to furnish copies. The delay, however, is principally occasioned by the absolute necessity of making copies for the Commissioners, by whom they are required for the purpose of framing their opinions and reports, as directed by the treaty.

Permit me to observe that the copies which have been furnished to the Department of State, are intended merely for the purposes of earlier information. The difference of opinion which has taken place between the Commissioners, in respect to the northwest angle of Nova Scotia, and the northwesternmost head of Connecticut river, has rendered necessary fair duplicate copies of all the proceedings, arguments, and documents, and these are now making for each Government, in a shape proper to be submitted to a foreign Power. This is, of course, a work of much labor, as there are, in addition to the reports, proofs, and arguments, nearly forty maps made by the surveyors who have been employed under the commission; but they will be completed before the close of the session of Congress, and, when delivered, together with the opinions of the Commissioners, to the respective agents, agreeably to the eighth article of the Treaty, I shall have the honor to place in your possession those belonging to the Government of the United States.

I have the honor to be, with the greatest respect, sir, your very obedient and humble servant,

WM. C. BRADLEY.

Hon. J. Q. ADAMS, Sec'y of State.

Cornelius P. Van Ness, Commissioner under the fifth article of the Treaty of Ghent, to the Secretary of State.

BURLINGTON, November 20, 1821.

SIR: The Commissioners under the fifth article of the Treaty of Ghent have disagreed in opinion on the principal points submitted to them, and will make their separate reports to the two Governments, conformably to the provisions of the treaty. The documents, consisting of the reports and maps of the surveyors and the arguments of the agents, besides various other papers, copies of which are to accompany the reports of the Commissioners, are very voluminous; but the necessary copies are preparing with all practicable despatch, and will probably be ready in the month of March next.

The reports of the Commissioners, with the accompanying papers and documents, therefore, will be received at Washington about the 1st of April next, but, at any rate, during the approaching session of Congress. The Agent of the United States, I presume, has furnished you with a more detailed statement of the situation of the business of the Commissioners.

I intend to proceed to Washington myself in April next, for the purpose of closing my accounts, which cannot very well be done without my personal attendance, and which cannot be finally done until the papers are completed.

H. OF R.

Calling the States for Petitions.

FEBRUARY, 1822.

I have the honor to be, very respectfully, your obedient servant,
C. P. VAN NESS.

Hon. J. Q. ADAMS, *Sec'y of State.*

The Message and documents were read, and ordered to lie on the table.

LETTER FROM THE VACCINE AGENT.

The SPEAKER presented a letter from Doctor James Smith, Vaccine Agent, which, on motion of Mr. LITTLE, was referred to the select committee appointed on that subject, and ordered to be printed.

BALTIMORE, February 4, 1822.

SIR: From letters which I received from Dr. Hunter, of Tarboro', in North Carolina, I am fully persuaded I have discovered the cause of the deplorable events which have happened there; and I am now satisfied, that they have originated from an accident such as never occurred before, and there is no danger that the like will ever occur again.

I had a paper which contained some small-pox scabs, taken by myself from a person named Whitfield, about 4th October, 1821; and on this paper I had written carefully, to avoid accidents, that it contained the variolous or small-pox matter. But this paper was afterwards mislaid, and, after searching for it in vain, I had concluded it was lost, and supposed it might have been swept out of my office with other waste papers.

From the information, however, which I have received from Dr. Hunter, quoting the words I had written on it, I have no doubt but that the same identical paper I had lost, containing the small-pox scabs, and marked as such, was put up in Dr. Ward's letter by some mistake or inadvertence, instead of the glasses of vaccine matter which I intended to send to him; and which, from his letter to me, I supposed he had received and used.

We may now, therefore safely conclude, that the injury done is of more limited extent than I feared; and every citizen of North Carolina has it in his power to be secured from it, if they will use the vaccine matter I have sent them.

Dr. Hunter assures me that the vaccine matter obtained by him from this institution, and which he was using "in a general and extensive vaccination," when he wrote me, 19th ultimo, was such as he knew to be genuine.

I hope you will be so good as to make the contents of this letter known in the House of Representatives; and I will be happy to furnish you or any committee of Congress who may be appointed to make inquiry on this subject, with every fact relating to it which has or may hereafter come to my knowledge.

I have the honor to be, &c.

JAMES SMITH.

Hon. SPEAKER of the
House of Representatives.

CALLING THE STATES FOR PETITIONS.

The House having proceeded to consider the resolution moved by Mr. CUSHMAN so to amend the practice of the House, as, in calling over the States for the reception of petitions, to begin with the State of Maine; and Mr. C. having modified it, so as to refer it to the Committee on the Rules of the House—

A motion was made to lay it on the table.

Mr. RANDOLPH asked, whether it would be in

order to move to amend the resolution, by striking out *Maine*, and inserting *Missouri*? [The SPEAKER said it would.] Mr. R. said he merely rose to state, that, as the rule at present stands, the States are called in chronological order—the order of their admission into the Union. That of itself, said he, is worth something. Every body must know that Maine is farther North—perhaps, sir, too far North for us—than New Hampshire. All school-boys know this. If we begin, I shall not be at all surprised at a proposition to insert some other State before Maine. Straws show how the wind blows. In the actual signatures to the Declaration of Independence, the members from the South signed first. Why? Because the good old town of Boston, which Mr. R. said he was sorry to find was about being converted into a city, had gotten into a scrape with the British Ministry, and the South was to be conciliated—so the Southern members signed first. Mr. R. said he hoped this resolution would be laid on the table as moved.*

Mr. CUSHMAN said, he had no objection to the resolutions lying on the table. If the alteration proposed by the resolve would confer any particular distinction on Maine over any other State, he should not have had the effrontery to offer it. All that he wished was, that she should hold that relative station on the list of States which she does on the map. She is the farthest, and, beginning North, as the list does, it appeared to him that the extreme North State should be called first.

Mr. RANDOLPH, (in an under tone.) Better begin South, sir.

The resolve was ordered to lie on the table.

* To the Editors of the National Intelligencer.

GENTLEMEN: I was not a little surprised, in casting my eye over your paper of this morning, at a remark said to have been made by the Hon. Mr. Randolph, in the discussion of the resolution offered by the Hon. Mr. Cushman, of the State of Maine, varying the present mode of calling over the States for the reception of petitions, so as to begin with the State of Maine. Mr. Randolph observes:

"In the actual signatures to the Declaration of Independence, the members from the South signed first. Why? Because the good old town of Boston, which Mr. R. said he was sorry to find was about being converted into a city, had gotten into a scrape with the British Ministry, and the South was to be conciliated—so the Southern members signed first."

Here the gentleman, as to the fact, is under an entire mistake. If you examine the signing of the Declaration of Independence, you will see *distinctly* that John Hancock, President, signed *first* in the centre; then, as has been the uniform practice in New England, Josiah Bartlett, William Whipple, beginning on the right; and under them, the members from Massachusetts; next Rhode Island, then Connecticut, and so on to the South, Georgia being the last. There is one exception—*Matthew Thornton*, a member from New Hampshire, signed after the members from Connecticut. The reason is this—he was not *present* when the signing commenced, but put his name *immediately* after those who had signed, as soon as he arrived. This is the fact in signing the old Confederation. New

FEBRUARY, 1822.

Naval Affairs.

H. OF R.

NAVY AFFAIRS.

The House then resolved itself into a Committee of the Whole, on the bill making partial appropriations for the support of the Navy of the United States, during the year.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, that reported the bill, briefly stated that the object of it was to suppress the piratical depredations that were committed upon our commerce in the Gulf of Mexico, and he moved to fill the blank in the first section of the bill, for the pay and subsistence of the officers and pay of the seamen, with the sum of one hundred thousand dollars. The motion prevailed, and the blanks for provisions and repairs were also severally filled with the sums of twenty thousand dollars.

Mr. SMITH also moved to fill the blank for contingent expenses, with the sum of twenty thousand dollars.

Mr. TRACY inquired, whether the whole sum was required for this particular service, or whether it was intended to apply to the general expenses of the Naval Department? If it was merely for this particular service, it was a large appropriation, especially after the liberal appropriations for provisions and repairs. On a requisition for contingent expenses by a department, he thought the House ought at least to be possessed of some of the principal and prominent items of expenditure. He was aware that there were expenses to be incurred, that could not be specifically named, or even foreseen; but he thought it the right of the House to understand something of the outlines of the expense.

Mr. SMITH said, the object of the appropriation was well understood. The sum of \$230,000 was reported for the whole contingent expenses of the Naval Department, and the sum of twenty thousand dollars proposed in the bill was a part of that expense, and to be deducted from it. This bill

Hampshire first—Josiah Bartlett, John Wentworth, Jr.; then Massachusetts, and Georgia last. The same is true in signing the Constitution of the United States. New Hampshire first—John Langdon, Nicholas Gilman; then Massachusetts, and Georgia last. Note all the proceedings of the old Congress, and those of the Convention who formed the Constitution. In calling the States, and naming those present, they began with New Hampshire, Massachusetts, &c. And in every instance of the admission of a new State, she has been called according to the date of her admission, with which they have been content, till this proposed usurpation of the State of Maine.

The incorrectness of the intimation of the Hon. Mr. Randolph is apparent by casting the eye upon the fac simile of the signatures to the Declaration of Independence. If they commenced signing with Georgia, and proceed to the North, then New Hampshire must be the last; but, you will observe, *Connecticut* is last, except Mr. Thornton, who signed in that place for the reason I have stated. But you begin with New Hampshire on the right, and thus pass regularly on to the South, ending with Georgia, passing the exception I have noted. A Member from New Hampshire.

FEBRUARY 8, 1822.

only contemplated an advancement for the purpose of suppressing piracies. Mr. S. agreed, that when an expenditure can be specified, it ought not to be included under the head of a contingent expense.

Mr. LOWNDES thought that the House should not consider the present appropriation as limited to a specific object, but as an advancement of the general navy service. It was part of the annual appropriation, but advanced at an early period to meet the exigencies of the occasion that required it.

Mr. RANDOLPH would not throw any obstacle in the way of the present appropriation, but he thought it proper to apprise the Committee of the great doubt that existed, whether, by ingrafting on our naval system the solecism of *imperium in imperio*, the Naval Department had not greatly suffered by the establishment of the Board of Naval Commissioners. Mr. R. disclaimed all personal considerations, and expressed, for those who constituted it, not only a confidence in their ability and integrity, but a personal regard. But the difficulty lay in the system, and he believed the Commissioners themselves and the Secretary of the Navy were convinced of its inutility, and would concur in abolishing this patchwork in our national system. He hoped that others, who were better acquainted with the subject, would take it into consideration, and apply the remedy, which, in his opinion, the evil called for.

Mr. JOHNSON, of Louisiana, stated that he was exceedingly anxious for the passage of the bill on account of the object of it. The bill is for a partial appropriation for the year 1822. It is founded on a letter of the Secretary of the Navy of the 25th January, in reply to a note of that day, requesting information upon the subject of a partial appropriation for the year 1822, for the naval service. It is stated that the appropriations of the last year are nearly exhausted, and that it is necessary to equip a force for the protection of our commerce. This appropriation is for the naval service generally. The letter, with regard to the naval force, is dated 28th January, in reply to inquiries of the 26th, with regard to the piracies. In this it is proposed to send out a frigate. This object is the inducement for the partial appropriation.

Mr. TRIMBLE had no objection to the passage of the bill, and rose only to reply, in a single remark, to the observations that had fallen from the gentleman from Virginia, (Mr. RANDOLPH.) In the four years he had occupied a seat on the floor, he had had occasion to examine into the office alluded to, and he was fully convinced, from the examination, which was scrupulous and attentive, that the establishment of that board had saved millions to the nation. It was constituted of men who were possessed not only of ability, but of experience and practical acquaintance with the subject on which they were employed. So fully satisfied was he of the importance of that board, that, were he driven to the necessity of voting to abolish either that board, or the head of the department, he should feel himself bound to vote for the continuance of the former.

Mr. RANDOLPH hoped he was not understood to pronounce any opinion upon the wisdom of any branch of the Navy Department. But he had turned not an unobservant eye to the subject, and he believed that the bureau, he might call it—the office, wanted new modelling.

Mr. TRIMBLE made a few further observations, and expressed his such entire satisfaction with the management of that board, that he was led to wish there could be an army board in like manner established.

The question was then taken, the blank filled as proposed, when the Committee rose and reported the same to the House.

In the House the bill was read and ordered to be engrossed, and read a third time this day, and was subsequently read a third time, and passed.

THE BANKRUPT BILL.

The House, on motion of Mr. SERGEANT, then resolved itself into a Committee of the Whole on the bill to establish a uniform system of bankruptcy.

Mr. MALLARY, of Vermont, observed, that he was in favor of the motion made by the honorable gentleman from Virginia, (Mr. SMYTH,) to strike out the first section of the bill now before the Committee. He was opposed to its leading principles, and could not give his support to any measure which contained them. By these principles, he meant such as are found in the provisions of the bill, which compel the debtor to surrender his property for the pretended benefit of the creditor, and exonerate the debtor from the obligation of his contracts. He considered, that all who were opposed to any laws containing such principles, would concur in the motion, and at once bring the subject to a speedy conclusion. If a majority of the Committee approved of this course, much time would be saved. It would be entirely useless to legislate upon the details, when the bill itself, in the conclusion, was to be wholly rejected.

Mr. M. remarked that the effects of the proposed system must be great. The relations of creditor and debtor would be changed. The effects would not be confined to the mercantile class of our citizens, but must be universal, and felt by the whole community. It was then the duty of every one to weigh well the subject, and ascertain, as far as he had the power, whether the effects would be disastrous or beneficial to the nation. Not to merchants and traders alone, but to the whole American people. The probability that some good might result, was not sufficient to induce Congress to hazard the experiment. We ought to be sure, as far as human foresight can determine, that the proposed measure will prevent the frequency of bankruptcies, discourage the perpetration of flagrant frauds, and elevate the value of national and individual credit. Its beneficial effects ought to be most clearly shown by its supporters. A reference has been made to the laws of other nations, relating to the subject of bankruptcies. They have been urged with great zeal by the honorable gentleman from Pennsylvania, (Mr. SERGEANT,) and in a manner calculated to

produce the deepest impressions. He has told the committee that we should consult the experience of foreign nations in relation to those subjects, which are interesting to ourselves. He has told us that commerce is essentially the same in England, Holland, France, and Spain, as in the United States. Laws, by those nations, had been adopted of a similar character to the one now under consideration. Experience abroad had given conclusive evidence of their utility. Mr. M. admitted that, although we might often gain the greatest advantages by consulting the laws and institutions of other nations, yet their adoption in this country should be allowed with the greatest caution. It was certainly very dangerous doctrine to admit, as a matter of course, that measures which had received the sanction of foreign governments, and had stood confirmed by their experience, should be sanctioned here. The preservation of good morals is an object of equal importance to the people of the United States, as of England, yet those laws, which have for centuries received the approbation of Englishmen, may be illy calculated for this country. Pure religion may be the same in France as in the United States, yet those laws which, in France, have been deemed necessary for its promotion, the honorable member from Pennsylvania will not contend are adapted to our condition. The people of the United States have a deep interest in the character and merits of our clergy, but the English laws, granting tithes for their support, would receive no very cordial welcome here. Yet the experience of England and France might be referred to as evidence of their utility.

Mr. M. observed he had alluded to these subjects to prove that the experience of other nations would often prove a fatal guide to ourselves. That, although there might be a variety of interests of equal importance to this country, and foreign nations, the nature of the respective Governments, and the character and feelings of the people, required, or admitted, of very different regulations. That, although the United States were as deeply concerned in commerce as England, Holland, France, or Spain, it could not with safety be inferred that their laws on the subject of bankruptcies should be adopted by the American Government.

Mr. M. then referred to the history of the commercial nations of Europe—the frequent wars, and interruptions of commerce—the loss of colonies—the arbitrary prohibitions of intercourse between them—the change of power on the ocean, and the perpetual dangers and sacrifices to which the European merchant was exposed. These facts were well known to every member of the committee. Mr. M. then remarked on the condition of the commerce of the United States, and its general prosperity since the adoption of the present Government. It was true that the embargo, the restrictive system, and war, operated severely on the merchant, and every class of people equally suffered from their effects. But all the misfortunes which have been suffered by the American merchants can bear no comparison with those of

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

the nations which have been mentioned, especially of Holland, France, and Spain. But whatever may have been the relative condition of the mercantile classes of different nations, and whatever may be the laws of other nations respecting their mercantile interests, we can find but little aid in consulting them. If any is afforded, it is to avoid the dangers of their bankrupt laws. We must look at home—ascertain the true character of our own people, and adopt laws calculated for their real condition, interests, and feelings. The better we understand these, the more safely we can legislate for their benefit.

The law for the relief of the purchasers of the public lands has been pressed into the service on this occasion. What relation it may have to the proposed measure it is difficult to ascertain. The Government and the purchasers of its lands were the parties to the contracts. Congress believed it would be for the real interest and benefit of the Government to pass the laws. The debtors could decide for themselves whether they would accept of its provisions. It was intended, also, for the benefit of the public debtors. It was mutually advantageous. Because the Government made a compromise with its own debtors is it to be inferred that it should compel individuals to compromise with their debtors? that it should annihilate contracts in which it has no concern? This would be a very strange conclusion.

Mr. M. observed, that his only desire was to present a fair and undisguised view of the subject. He wished to look into the ranks of the community and endeavor to ascertain upon whom the proposed measure was to operate, and whether blessings or misfortunes would flow from its adoption.

There has existed, in the United States, a strong and eager propensity to engage in trade. It holds out inducements to avoid the more laborious pursuits of life. The employments of the farmer and mechanic have been abandoned by thousands to engage in the more fascinating pursuits of commerce. The business of trade gives facilities to fraud, which no other affords. This arises from the ease with which merchandise is converted into money, or securities which may be easily concealed and secured. It tends to an increase of domestic expenditure and personal extravagance. It produces a desire to adopt, as it is commonly called, a more genteel and fashionable style of living, which is wholly incompatible with that economy and frugality which lead to wealth and opulence. The man who commences with credit too often becomes anxious to imitate the examples which real wealth alone can support. Thus the way is prepared for failure; mortification and falling pride press their victims on to dishonesty and fraud. It was far from his intention, Mr. M. said, to speak disrespectfully of the great body of our merchants. Their interests are allied to all the other great interests of the nation. Among them are to be found some of our most intelligent, enlightened, and patriotic citizens.

The friends of the proposed measure would extend its provisions to the merchant and trader, and

some few others who are immediately connected with them, by the nature of their business. To extend it to all, would, it is believed, produce universal ruin.

Much has been said on the merits, distresses, and sufferings of those whom it is intended to relieve. It becomes necessary to look with steady and impartial eye at their true character. We ought, as far as possible, to ascertain the origin of those distresses and sufferings which demand the passage of a bankrupt law with so much earnestness and zeal.

Many have become bankrupt from a total ignorance of the business into which they have entered. Unskilled in mercantile affairs, they seemed to believe that to engage in trade was to secure a fortune, without the least attention to industry and economy. Does this class of people merit the interference of Government?

Many have become bankrupt from the indulgence of extravagance in living. Merchandise furnishes luxuries and invites the possessor, whether he has obtained them by credit or capital, to use them for his own convenience and pleasure. Mercantile employment is often supposed, by those who are engaged, to confer some higher rank than the common pursuits of life: of course that rank must be supported by more than common expenditures. Many who have become bankrupt may, in these facts, find the true cause of their misfortunes. Has this class any commanding claims on Government to legislate for their exclusive benefit? For one, I consider there are other objects more deserving the attention of Congress.

Many have become bankrupt by engaging in wild and even criminal speculations. Are there not some in the country who now feel the effects of a participation in smuggling during the restrictions upon our commerce? Are there not some who feel the effects of British licenses obtained during the recent war? Of neutral trade—of attempts to violate the laws of other nations? Would these circumstances keep back the privileges of the bankrupt law? Persons of this description, and some no doubt can be found, are not among the meritorious objects of legislation. Their pretensions can have but little influence over the mind of an honest man.

Part have failed, from causes beyond the control of human power. They have been overtaken by misfortunes undiscoverable by human foresight. They are as honest and meritorious as unfortunate. Yet we know the great liberality which exists among the mercantile class of our citizens, and the frequency with which they restore an honest but unfortunate man to his employment. This generous willingness to afford relief is one of the great characteristics of the American merchant. Those who still remain under the pressure of their embarrassments have the strongest claims on our feelings. Could any measure be devised for their relief compatible with the general good, I would most cheerfully lend my feeble aid to carry it into execution. It is, however, believed that this latter class must be comparatively small. Let gentlemen ask themselves, had the merchants generally been as prudent, as careful, and perseve-

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

ring, as those who are engaged in other employments are, and from necessity must be—what proportion of those who now are bankrupt would have been so? It is considered that small, indeed, would have been the number.

The attention of the Committee is called to the effects which will attend a system of laws which provides for the discharge of contracts in a manner contemplated by the bill before us. People seldom enter into obligations without providing means of payment. These occupy their attention. Their exertions are made to accomplish an honorable and faithful fulfilment. The proposed measure affords an additional mode of procuring a discharge of debts. It takes none away which previously existed. The advantages of such a law would ever be considered by those about to become indebted. They of course would be less cautious in contracting debts and less solicitous about fulfilling them. They would always reflect that, should they fail in their calculations, the generous provisions of the bankrupt law would come to their relief.

The honest and dishonest man equally exert themselves for the accumulation of property. They also equally desire the open and unrestrained enjoyment of it. If property must be kept concealed from the view of the world, and can be used only in secret, it loses almost entirely its value. The hazards of confidence being betrayed, of the penetrating eyes of vigilant creditors, must often give the owner more trouble than satisfaction. The honest man will face all dangers not criminal for the accumulation of wealth. The dishonest man is equally enterprising, and even crimes are not avoided, when he is impelled by an ardent desire of gain. Hence the ordinary laws of insolvency, which still leave the property exposed, are uniformly dreaded by a fraudulent debtor. His property, although concealed, is in perpetual danger. Under a bankrupt law, if he can once succeed and triumph in his villany over the form prescribed, his person and his property are redeemed from the power of his creditors. It is true that, if once detected, he derives no advantage. We must bear in mind the difficulty of detection.

We know the ease with which merchandise can be converted into money, securities, or stock, and that nothing but the eye of omniscience can detect it. Immediately on the restoration of the bankrupt, his certificate gives him a passport to employment, and what villany has saved will soon assume the appearance of new acquisitions. And here, said Mr. M., let me put the question home to every honest member of this committee: Which does the honest man prefer, a bankrupt or an insolvent law? I repeat the question, which law would he prefer? There can be no doubt that he would give the most unequivocal decision in favor of a bankrupt law. To me, it is a matter of some suspicion at least, that the honest man and rogue should coincide in opinion; that they both should become the strenuous advocates of the same measure.

The tendency of the proposed measure must be

to induce thousands to become bankrupt, who, under the existing laws, will persevere with unre-laxing vigor and obtain a more honorable discharge from their creditors, than a bankrupt's certificate. They will now pay their honest debts to the last farthing and enjoy the consolation of meritorious and successful exertions. But, once adopt the principles of the proposed law, the arm of industry will become nerveless, and frugality and economy will no longer be required by the demands of necessity.

Such a bankrupt law as we are called upon to pass, will invite thousands, who are now involved in debt, to engage in trade, that they may obtain its privileges. But, in answer, it may be said, that this is to be forbidden. How can it be prevented? What power exists to prevent those who are desirous of avoiding their contracts, from becoming merchants? Who will possess sufficient discernment to ascertain that they have engaged in trade, with the *intention* of becoming bankrupts?

It is admitted that the rage for commercial employments has been great throughout the Union. The nation has not at this time recovered from its effects. Yet the evil is rapidly producing its own remedy. The same may be said of all the great variety of speculations which for years have overrun the country. Merchants, especially in the country, are recovering, with a sure and steady pace, from the troubles and embarrassments which have surrounded them. They are fast gaining in the confidence of the people—in credit and wealth. They have adopted the salutary rules of industry and economy, and while they observe them they have but little to apprehend. To them the bankrupt law must prove destructive. It will increase the number, divide the profits of business, and compel many who are now successfully struggling against the effects of more disastrous times, to take shelter under the protection of a certificate of bankruptcy.

We have been told by the honorable gentleman from Pennsylvania, (Mr. SERGEANT,) of the sufferings of those who demand the passage of the bill. They have been presented in a manner calculated to excite our warmest sympathies and feelings. We have been told that society demands their return to active employment, by which the great stock of national industry would be increased. Those who would be relieved would return to commercial pursuits; and let every candid mind inquire, let impartial justice decide, on the benefits which the community would receive by the return of those who failed from an ignorance of their business, and the want of prudence and economy? What benefits could result from the return of those who became bankrupts from their wild and heedless speculations? What benefits would follow a restoration of the extravagant spendthrift, who indulged in luxury and dissipation at the expense of his honest creditors? Almost every village in the Union has felt the ravages of this description of men, and whose return is as much to be dreaded as the approach of pestilence. The experience of England and our own country proves that such men have received all the rights and immunities

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

of bankrupt laws. There can be no doubt but they will continue to enjoy their favor and protection. And let every one, then, ask himself whether blessings will follow, commensurate with the evils which such men will produce when restored to their former pursuits?

The proposed system creates a distinction between the legal rights of citizens of the same community. This is decidedly hostile and repugnant to the principles and feelings of the American people. This subject has engaged the attention of the honorable members from Virginia, (Mr. STEVENSON and Mr. SMYTH,) who preceded me in the debate. They have done it such ample justice that it may seem presumptuous for me to add a remark. No one, Mr. Chairman, can be ignorant of the nature of our Government and civil institutions. They rest only on the feelings and opinions of the people. These must be consulted by every practical legislator. We may affect to disregard them; we may pass laws, whose operations may be execrated, but they will instantly be blotted from the statute book by the power of public indignation. For one, I am frank to confess, I have no desire to provoke its exercise. I consider it a violation of our most sacred duty to give a sanction to laws, whose effects may be dreaded by our constituents. Such laws will never be carried into faithful execution. You may impose pains and penalties, but your laws will not be obeyed. The respect of our citizens for your measures will be diminished; the example of one law disregarded will be employed as a justification to resist the execution of another less obnoxious, and thus by degrees the whole will be resisted at pleasure, and treated with contempt. While we entertain the highest respect for the merchants, it must not be at the sacrifice of an equal respect for the other great classes of the people. The misfortunes of one are no more distressing than the misfortunes of the other. The principles of the bill must, therefore, be in direct opposition to the sentiments of the nation at large—and, pass what laws you please, you cannot extirpate the feelings of the people, nor prohibit their effectual and decisive operation.

Mr. Chairman, we have heard it often repeated, that the want of uniformity in the laws of the several States gives great embarrassments to the operations of trade. It is said that they cause a perpetual perpetration of frauds, which Congress has the power to prevent.

I shall assume, said Mr. M., that the State governments are administered by as honest men, and who are as hostile to frauds, as Congress can be. I believe they possess as much knowledge of practical legislation. They must have as intimate an acquaintance with the habits, employments, and designs of the people of their respective States, as it is possible for men to possess. Frauds and offences often exist in one State which are unknown in another. The State Legislatures will readily apply those preventives which would fail to excite the attention of Congress. And I may also add, that the State Legislatures can adapt their laws, with a precision and exactness, to the habits and propensities of their people, which Congress,

from the extended operation of its laws, can never attain. If frauds, therefore, continue to exist, it seems difficult to conjecture by what means the Government of the Union will prevent them.

It is, however, strongly contended, that great frauds and iniquity will be prevented by a seizure of the property of the debtors when an act of bankruptcy has been committed. Does not the bankrupt know all this? Will he not know when he will be induced or compelled to commit some one of the acts mentioned in the first section of the bill? Will he be the first to give notice of his intention to his creditors? Will not the man who is hardened in iniquity, and callous to all the sentiments of morality and honor, as the gentleman from Pennsylvania has observed, take time by the forelock, and provide for the consequences? Will he wait for his creditors to strike and secure that property which he intends to remove from their reach? Such a measure must, indeed, be wonderful.

Another important object, it is said, is to be accomplished by the proposed measure. It is, the destruction of that preference which is given to what are called honorable debts. How are these considered among mercantile people? What are the feelings which exist upon this subject? How is the man esteemed who, in consideration of his common obligation and the solemn pledge of his honor, has obtained a favor, and should violate both? How is the man esteemed who, to induce his friend to assist him with a loan of money or advance of property, to enable him, if you please, to begin in the world, or save a sinking fortune, gave him a solemn pledge of preference to his ordinary creditors, and then turned traitor to that confidence which he had excited? You may moralize and legislate as you please, but the man who betrays that confidence will be considered but little better than perjured after all. How can you prevent the creation of this kind of obligations? Will not friend assist friend? Does not partiality and preference exist in the very soul of man? And will the debtor, on the point of bankruptcy, forget the claim of his bosom friend? Such transactions will exist, and you may as well attempt to stop the palpitation of the human heart as to prevent them. The effort is an invitation to perjury and crime.

We are often told of the hazards and risks of the merchant. His employment is of a character, it is said, which demands some extraordinary provisions in his favor. The hazards and risks of those engaged in foreign trade may be greater, perhaps, than those of ordinary pursuits. These, however, are diminished by the practice of underwriting and insurance. But, said Mr. M., I wholly deny that the merchant, whose business is confined to this country, is more exposed to hazards and losses than those engaged in the common pursuits of life—I do not mean the hazards and losses occasioned by the extravagance and luxury of fashionable life, but those which industry and prudence could not avoid. Look at the agricultural class, which composes the great body of our population. Are they not exposed to risks and hazards? How

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

often are they exposed to the misfortunes of unfavorable seasons? An unpropitious Winter, or Summer; a drought, or storm of long duration, often destroys the fruits of their labor for the year, and is frequently followed by perpetual ruin. The same cause which affects one involves millions in its consequences.

While the Committee are warned to profit by the experience of other nations, we ought not to be wholly regardless of the experience of our own. We once had a bankrupt law. We have heard no applause bestowed on its operation. We have been told by the honorable member from Pennsylvania, (Mr. SERGEANT,) that it was adopted at the close of an administration that was finishing its political career. That it was considered of a political character by the party which succeeded. That its failure was, in a great measure, owing to the source from whence it sprung. In this, I believe the honorable gentleman is clearly mistaken. The law was passed in April, 1800, and was repealed in December, 1803. The Judiciary act, as it was called, was considered a political measure. It was passed February, 1801, and repealed March, 1802. The Stamp act was passed in April, 1800, and repealed in April, 1802. The bankrupt law was allowed to remain in operation almost two years longer, and was finally abandoned by a vote of 99 to 13. Had it been considered as emanating from the policy of Mr. Adams's administration, the friends of Mr. Jefferson's would, in all probability, have consigned it to the same fate, at the same time as they did the others.

But, said Mr. M., was the well-founded complaint, that it was productive of monstrous frauds, to be attributed to its origin from an unpopular administration? The proceedings, under its execution, were attended with the most perplexing and intolerable delay. Was this owing to its origin? There were but few dividends, and the creditor, whose interest is so much at heart, received but little consolation. Was this occasioned by its origin? The expenses under the law were enormous. Were these produced by the politics of Mr. Adams's administration? I will present a very brief view of the returns made from several States, pursuant to a recent resolution. From the State of New York we learn that 166 certificates were allowed. It is ascertained that, in ninety-five cases, there were twenty-two dividends. In Pennsylvania 177 certificates were granted, and the returns are complete in only forty-six cases. In these there were ten dividends. In the District of Columbia there were 14 cases, and none are settled to this day. From Maryland we learn that 58 cases were allowed; what dividends, or whether any were made, we are not informed. From New York and Pennsylvania, in 141 cases, where returns are complete, we find thirty-two dividends; two of 50 per cent. and over; seven of 25 per cent., and under 50; nine of 12½, and under 25; twelve under 12½ per cent. The costs are returned of only 95 cases, and these amount to \$26,883. This is the fruit of experience, and it is respectfully submitted, whether such a result was produced by the political character of the administration which ex-

isted at the time when the law was adopted. And it is but just to observe, that the bill before us is but a substantial transcript of the one which has been so long condemned.

A reference has been made to the bankrupt laws of England. Their imperfection has been admitted on every side; yet the bill before us, the offspring of the best intelligence and talents of the country, is an almost literal transcript of the English laws. Their effects in England have been most forcibly described by the honorable gentlemen who have preceded me. I will add a little to the mass of condemning evidence which they have presented, for the consideration of this Committee. In May, 1817, the members of the mercantile body of London, directors of the Bank of England, the merchants engaged in the East and West India trade, presented a petition to the House of Commons, in which they unequivocally asserted that, under the bankrupt laws, the bona fide creditors were defrauded by fictitious claimants. Sir Samuel Romilly, whose attention had been devoted to the same subject, as much as any man's in England, asserted, in the House of Commons, that "the grossest frauds were practised under the bankrupt law." He said, "the system of the bankrupt law was radically defective. Fictitious debts often superseded bona fide claims; that, indeed, many persons entirely subsisted in this town (London) by the fraudulent management of bankrupt concerns, by the superintendence of perjury and subornation of perjury." Such is English experience.

The gentleman from Pennsylvania considers that the bill before the Committee contains some very valuable improvements. He has told the Committee that, by the English laws, a person is declared bankrupt without his knowledge, or any other chance of making his defence. His property is instantly seized, and relief can be had only by application to the proper authority by the person charged. By the present bill these arbitrary proceedings were avoided. Instead of this being an improvement, said Mr. M., I consider it a departure from the true spirit of the bankrupt system. By giving the debtor notice that his creditors are proceeding against him, you give him notice to conceal his property, and commit the very frauds you are endeavoring to prevent. Under this boasted improvement the debtor has time to conceal that property which, by the English law, is seized at first for the benefit of his creditors.

We are told that, in England, the proceedings before the commissioners of bankruptcy are extremely irregular. And this is one of the principal causes of the mischiefs to which allusion has been made. By the provisions of the bill it is supposed that all the dangers arising from this source will be wholly avoided. The other day, when a different subject was before the House, the honorable member made some very interesting remarks on the high character of the British House of Commons for wisdom, intelligence, and extraordinary talents. It then occurred to me, said Mr. M., as a matter of surprise, that such wisdom, intelligence, and talents, should be wholly unable to

FEBRUARY, 1822.

Proceedings.

H. OF R.

provide a remedy for the evils of their bankrupt laws, especially, as one seemed to be readily found, on this side of the Atlantic. It is believed no remedy exists. The experience of centuries, and the discernment of English statesmen, appear to be set at defiance. Schemes without number have been, by turns, considered to arrest the progress of vice and crimes which flow from their rotten system, but they fall to the ground as hopeless projects. The friends of reform have no confidence in the measures proposed by each other to accomplish that desirable object.

But we are called upon to pass the bill—to try the experiment. Should all the anticipated evils follow, we can repeal the law. So say the bankrupts. The certificates once obtained; the annihilation of the system would excite but little emotion. This is a course of legislation which I cannot pursue. It looks too much like experiments which have been so disastrous on other occasions.

A reference has been made by the honorable gentleman, (Mr. SERGEANT,) to the laws of several States of this Union, which contain principles similar to those which appear in the bill under consideration. The laws of the State of New York have been included in his remarks. Mr. M. then made some observations on the bankrupt laws and insolvent laws of that State. The first contain in substance the principles of the proposed system, though embracing more numerous classes of debtors. The acts, which are considered as evidence of bankruptcy, are also more limited. They contain all the usual provision for the assignment and distribution of the debtor's property, and give a discharge from his debts. The effect of these laws, so far as relates to the future acquisitions of property, is impaired by the decisions of the Supreme Court of the United States. In the State of Vermont nothing in the character of bankrupt or insolvent laws has been adopted. The person and property of the debtor is liable to attachment as soon as his obligation becomes due. By the act of attachment a lien is created on the property taken, which remains until final execution. A detail cannot, in this discussion, be fully given; but some of the leading features of the laws of both States ought to be presented in order to make the application which is intended. Any comparison which may be made between the value of credit and condition of the people of these States, it is hoped, will not be considered improper. It is the duty of Congress to search for information from every source. I shall now, said Mr. M., call the attention of the Committee to the memorial of the merchants of the city of Troy, in the State of New York. It has received their unanimous approbation. It contains the reasons of a class of citizens, whose industry, economy, and intelligence, are not surpassed in the Union. From their successful exertion, within a short time, has sprung into existence one of the most flourishing cities in America. Its founders are still seen among its people, persevering in that course, which has led to such fortunate results. They are now enjoying the rich rewards of their prudence and wisdom, and the satisfaction of observ-

ing the benefits which others have derived from their meritorious example. The evidence afforded by such men is not to be slightly passed over. The following are a few of the statements and opinions contained in the memorial, which, with others, Mr. M. then read to the Committee—"Among the American merchants, perhaps nothing has occasioned so extensive evils as a propensity to overtrade and embark in hazardous and extravagant speculations." Again, they say—"of all the States in the Union, perhaps the State of New York has, by law, afforded the greatest facility to insolvents to obtain a discharge from their debts; and the consequence has been that, in no State in the Northern section of the country at least, have mercantile failures been so numerous or so disastrous to the creditor."

"In further confirmation of the correctness of the views of your memorialists upon the subject, permit them to state as an indisputable fact, that, although more than half of the trade of this city has ever been with the merchants and citizens of Vermont, yet more than three-fourths of all the losses sustained by our merchants have ever been occasioned by failures in the State of New York. The only reason why this difference should have existed, your memorialists apprehend, is, that in the former State they have had no insolvent laws, while in the latter insolvent laws have ever existed, apparently as well guarded as the present bill. It is worthy of remark, too, that since the late decision of the Supreme Court of the United States, declaring these laws unconstitutional, so far as they exonerate the debtor from the payment of his debts, it has been productive of the most salutary effects. The merchant has been more cautious of contracting debt beyond his ability to pay, and the number and disastrous effects of mercantile failures have been greatly reduced." This, said Mr. M., is the language of experience; experience of our own country, and before our own eyes. Commentary from me will afford no illustration.

Mr. M. then said he was irresistibly impelled to the conclusion he had drawn, that the proposed measure was fraught with the most dangerous consequences; that it would, if adopted, bring down upon the nation an awful accumulation of bankruptcy, fraud and misfortune.

FRIDAY, February 8.

Mr. LOWNDES presented a memorial of sundry inhabitants of Colleton District, in South Carolina, praying that so much of the acts of April 18, 1818, and May 15, 1820, as prohibits British vessels entering the ports of the United States with cargoes from British colonies, may be repealed; which memorial was referred to the Committee of Commerce.

Mr. McLANE, from the Committee on Naval Affairs, reported a bill to incorporate "the United States' Naval Fraternal Association for the relief of families of deceased officers," which was read twice, and committed to a Committee of the Whole.

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of William Dooley, accompanied by a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

On motion of Mr. JACKSON, the Committee on the Judiciary were instructed to inquire into the expediency of amending the act, entitled "An act for the relief of persons imprisoned for debt;" so as to extend the privileges to persons imprisoned on process in civil actions at the suit of the United States.

Mr. Cook submitted the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire and report whether any, and, if any, what, appropriation is necessary to be made to supply the deficiency in the appropriation made at the last session of Congress to defray the expenses of surveying the public lands for the year 1821, and into the expediency of reporting a proposition for an amendment to the "bill making a partial appropriation for the military service for the year 1822," to supply such deficiency.

The resolution was ordered to lie on the table.

Ordered, That the Message from the President of the United States, received yesterday, respecting the proceedings of the boundary commissioners under the fifth article of the Treaty of Ghent, be referred to a select committee; and Mr. WILLIAMSON, Mr. PITCHER, Mr. CRAFTS, Mr. ROSS, and Mr. TATNALL, were appointed the said committee.

Ordered, That the Committee of the whole House, to which is committed the joint resolution submitted by Mr. CAMPBELL, of Ohio, on the 26th of December last, "directing the classification and printing of the accounts of the several manufacturing establishments and their manufactures, collected in obedience to the tenth section of the act to provide for taking the fourth census," be discharged from the consideration thereof, and that the said resolution be engrossed, and read a third time to-morrow.

The House proceeded to consider the bill from the Senate, entitled "An act authorizing the transfer of certain certificates of the funded debt of the United States;" and it was ordered to be read a third time to-morrow.

BANKRUPT BILL.

The House then proceeded to the consideration, in Committee of the Whole, of the bill to establish a uniform system of bankruptcy.

Mr. MONTGOMERY, of Kentucky, observed that he had long been of opinion that a well regulated system of bankruptcy ought to constitute a part of the national code. His opinion, he observed, was founded upon considerations inseparably connected with commerce and its agents, and upon the peculiar structure of our political institutions, a view of which he now intended to exhibit. He had never heretofore, nor did he now believe, that it would prove a grand political remedy for all the ills of life; that it would extirpate all inducements to the commission of fraud, or entirely destroy the elements used in the practice of it. He

said he could but admit that, notwithstanding the adoption of such a system, some frauds would be committed; but he believed that the number would be lessened, and a large number of meritorious citizens restored to a state of happy usefulness.

He remarked that the proposition to strike out the first section of the bill, involved the consideration of its principles, and particularly that which might be termed its main principle; and that, indeed, it was necessary to look beyond the first section in order to have a distinct idea of what was to be decided on. The first section contains a description of the persons who may become bankrupts, namely, merchants and traders, &c.—persons engaged in buying and selling for profit, as their occupations respectively; with a specification of the acts, &c., which shall render them bankrupts, followed by a proviso declaring who may not become bankrupts. He remarked that he would connect with the first section what he considered the main principle: it is, that a person proceeded against as a bankrupt, upon surrendering himself, disclosing and rendering up all his estate, real, personal, and mixed, legal and equitable, in possession, in remainder, and in action, will, with the approbation of two-thirds in number and value of his creditors, be entitled to a certificate which shall be a complete release against all the debts by such bankrupt then owing. This was, as he believed, the true notion of bankruptcy, and for such principle he should now contend.

The subject, he observed, very naturally divided itself into two heads or branches of inquiry, namely, that which respected the power of Congress to pass such a law, and the expediency of passing such a law. Have we the power? Is it expedient? Are the two questions to be discussed and decided upon. The first question will, without doubt, appear to many to be the one which ought to be first examined; but he remarked that he would examine the second as stated first. He observed, that he did not mean to say that power and expediency were convertible terms; but he believed that the import of a rule could hardly be understood until the reasons of the rule were understood; and he also believed that an investiture of power would not be well understood without clearly perceiving the uses and objects of such investiture.

He then observed, that it would aid us in our examination to have some of the leading features of the existing law brought directly in contrast with the principle of the bill. He stated that, at common law, and, as he believed, in the greater part of the States, with the statutory changes, a man was ever liable for his debts, notwithstanding every cent's worth of property may have been taken and sold, and although the greatness of the balance against him might render it entirely improbable that any more could be obtained. Not so under the proposed law; by its principles, the person obtaining a certificate is to be released from all liability in future. By the laws, as they now stand, one creditor may take out an execu-

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

tion, force a sale, sacrifice all, and have all. Not so under the bill; it provides for a division among the creditors, each taking in a just proportion to the amount of his debt.

He then observed that he would proceed to present to the Committee some considerations which, in his view, ought to determine it to reject the proposition to strike out the first section, it being equivalent to a proposition to reject; and such as would show that, with a few amendments, the bill ought to pass.

He remarked that the utility of commerce and the peculiar character of its operations and its agents, demanded a very favorable consideration. By or through the operations of commerce, we exchange that which would be of no value to us, for that which will add to our comforts and happiness; and thus the industry and skill of a people are increased. By means of the commercial intercourse of nations, knowledge has been diffused through the world, and the arts and sciences have been advanced and promoted. No example, he said, could be adduced of a nation, isolated and unconnected with others by commercial intercourse, which did not remain in a state of comparative ignorance and barbarity. Again, he observed, through the agency of commerce, nations are secured against the direful effects of famine; the abundance of one country is made to supply the deficiency of another, and the scourge of famine ceases. And, indeed, he said, we might be said to owe our places here to commerce; for, he believed it might be shown by tracing a regular and obvious chain of causes and effects, that our meeting here as the representative legislators of a free people, has resulted from the superior science and adventurous spirit of one of the agents of commerce.

He then remarked that the agents employed in commerce are liable, in a peculiar manner, to great disasters. By the operation of the elements, a merchant may be hurled from affluence to a point far below mere insolvency; by a change in markets, the same result may be produced; and the same may be said of misplaced confidence. It is not a satisfactory answer to say, he ought to have been insured; he may not have had it in his power; or some unforeseen peril may have operated after an insurance, or the insurers may have failed. Changes in market are beyond the ken of any mortal; and the most prudent may be ruined by suretyship. A merchant may feel himself under strong obligations of gratitude to sundry persons for favors conferred, and by endeavoring to discharge them in the acceptance of bills of exchange or the endorsement of notes to be negotiated, be involved in ruin irretrievable. The cultivator and others may see their way; it is never necessary that they should put all at stake; but as the merchant's profit depends upon the quantity he sells exclusively, he is frequently compelled to hazard all in order to make enough to afford him a comfortable livelihood; and, indeed, the state of his country's market may force him into this course. These considerations, he remarked, tend strongly to show the peculiar situa-

tion of men engaged in commerce and traffic, and to evince the propriety of applying a different rule to their cases from that which is applied to ordinary cases.

To the foregoing he said he would add the very little value of what was released, if that could be said to have any value which in truth is worth nothing. Suppose, said he, the balance of the account against a merchant to be some twenty, thirty, or forty thousand dollars, and what would the whole be worth? He answered, about nothing; and declared he would rather have his honorary obligation to pay the amount after being released under a bankrupt law, than his legal ability without such liberation. His exertions after being released, combined with a hit of good fortune, might enable him to pay much; but no profitable exertions could be made by him whilst under such a weight of debt.

Mr. M. remarked that he would add to the foregoing considerations the paralyzing effect of such a weight of debts with respect to all useful exertions, as well of himself as of his wife, and the infant branches of his family. The fruits of his wife's needle-work might be torn from the house by some Shylock of a creditor; and if he should attempt to operate in the mechanic way, his little stock of materials might be torn from him in the same way; and should he attempt to become a cultivator, his efforts might be defeated by taking his seed grain. Such a pressure of debts must hang upon a debtor like a deadly incubus, leaving him no ray of hope—no power to be useful; he would have in truth nothing in prospect before him, but that of dragging through a few miserable days of mortification.

Mr. M. remarked, further, that to the foregoing ought to be added the principle of equal justice contained in the bankrupt system proposed, under which the creditors are to divide, according to the amount of their debts respectively; whereas, under the common-law doctrine, the first who can legally levy may take all.

Mr. M. then remarked that the foregoing considerations were applicable to the bankrupt principle in the abstract, and would have about the same force in any country having an active commerce; but that there were views of the subject founded upon the peculiar structure of our political institutions which rendered the system in a much higher degree necessary and proper. To this view he said he would now call the attention of the Committee.

Mr. M. then remarked that the relation of creditor and debtor may be easily conceived to be ramified very extensively through our country—link depending upon link from Boston to New Orleans, or from New York to St. Louis, &c. Now, said he, upon even a slight view, it will appear that the application of various rules to various parts of these chains of relation would probably produce much derangement and injustice. A speedy administration of justice in one State, and a tardy one in another, would produce the result; and the like may be said of rigor and laxity in other views.

Mr. M. then remarked that he would suppose a few cases, for the purpose of illustrating the ground which he had taken. A, a citizen and merchant of Massachusetts, is indebted to other citizens there in the sum of fifty thousand dollars; and at the same time B, a citizen merchant of New York, is indebted to A in the like sum. It might happen upon this state of the case that the Legislature of Massachusetts might retain the old notion of the propriety of imprisoning a man for his debts—have a law in force to authorize it, under which A is imprisoned; there to remain until he pays the uttermost farthing, gives good security, or can come out as an insolvent. Whilst A is confined, he sends and has a writ served upon B in New York. B laughs; says it is time to be off; gathers up all, and away he goes to Botany Bay or any other place, beyond the reach of A.

Another case: C, a merchant of Pennsylvania, is indebted there to the amount of fifty thousand dollars; and at the same time D, a merchant of Kentucky, is indebted to him in the like sum. It might so happen, that the persons exercising the functions of legislators in Pennsylvania might believe the old notion was correct, that justice ought to be administered speedily; and the Legislature of Kentucky might happen to be under the influence of that parental spirit which the gentleman from Virginia (Mr. SMYTH) so much admires and delights in, and, being under it, greatly increase the "law's delay;" so that whilst the creditors of C in Pennsylvania are administering his estate most speedily—sacrificing his property by forced sales, under executions—he will be waiting to see whether there will be no termination of the "law's delay" in Kentucky.

Another case: E, a merchant of Maryland, indebted to citizens there in the sum of fifty thousand dollars, has the like sum due to him from F, a merchant of Virginia. The law of Maryland might happen to be rigorous, subjecting the whole of a man's estate to sale under execution, scarcely saving dower or a bed to the wife; whilst the Legislature of Virginia, acting under the influence of those refined, those sublimated feelings of regard for the female sex, which seems to operate upon another gentleman from Virginia, (Mr. STEVENSON,) secures by law one-half of the estate to the wife. Under this state of the laws of these States, the merchant of Maryland and his wife and family would be completely stripped for a time, and ultimately the Maryland merchant would only receive half of the sum to which he was entitled. He remarked that cases might be multiplied further to illustrate, but he deemed it unnecessary. He then remarked that such discordance in legislation, productive of such derangement and injustice among mercantile men, must sooner or later produce among the States ill feelings of a very serious character. The Convention who framed the National Constitution had the experience of some years before their eyes; the members were witnesses to the results of such discordant legislation in regard to the merchants of the country; they were wise men, and could see that the evil would grow with the growth of our population and

commerce, and to guard against it Congress was invested with the power of passing a system of bankruptcy which should be uniform throughout the United States. This in his view was the great reason for the investiture of the power, and the strongest for the expediency of the exercise of it.

He then remarked that he would consider the question of power with reference to the bill now before the Committee, and endeavor to prove that Congress possessed the power of passing it. (He then read from the 8th section of the first article of the National Constitution, that portion which vests Congress with the power of "establishing a uniform system of bankruptcy throughout the United States.") He said he believed the members of the Convention were wise men, and as such he could not believe that they intended to bring within the scope of the jurisdiction of the national courts the small transactions of handicraftsmen, agriculturists, &c. He could not believe that it was intended to drag them before commissioners of bankruptcy, and finally before a federal court, to adjust the division of an estate, not worth more than one or two hundred dollars. No, he believed, in opposition to many others, that the law ought to be confined to the cases of those classes in society, whose transactions of a mercantile and trading character had furnished the necessity of the system. He then read the second section of the third article of the National Constitution to show that if every class in society were embraced by the terms of the law, their cases would become subjects of cognizance in the federal courts, as being cases governed by a law of the United States. This, in his opinion, was not the intention of the Convention.

He then remarked that the terms bankruptcy and insolvency were both technical terms in the law, the first expressing the condition of a merchant, trader, or broker, &c., who had committed some act, &c., evincive of a disposition to hinder or delay the payment of his debts, and who was entitled, upon a complete surrender of his estate for the benefit of his creditors, to be released from future liability; the second embracing the cases of all the other classes of society who were unable to pay their debts, and who were entitled by sundry statutory provisions to be released from imprisonment, but not from all future liability with reference to their property. The members of the Convention were generally learned in the laws, as well of the States as of Britain; they had a full opportunity of seeing these principles in the form of statutes and digests; they understood them; it is, therefore, a fair conclusion, that, if they had designed to adopt the principles and notion of insolvency, they would have used the term.

He then observed that the term bankruptcy was a technical term in legal science, embracing the persons, acts, proceedings, and results of the bill; that the persons using the term well understood its technical import; and he thought it a fair conclusion that it was used in that sense. He then called the attention of the Committee to one of the rules of construction laid down by Vattel, B. II. chap. 17, section 276. The rule is, that "tech-

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

'nical terms, or terms peculiar to the arts and sciences, ought commonly to be interpreted according to the definition given of them by masters of the art, or persons versed in the knowledge of the art or science to which the terms belong." This is the rule; the exceptions, as given by Vattel, are where the writer of a treaty or deed is proved not to understand the art or science; that he is unacquainted with its import, as a technical word, or that he employed it in a vulgar acceptance, &c. Now, as there is no evidence to show that the members of the Convention were ignorant of the science of law; nor any fact or circumstance to justify the inference that they were unacquainted with the import of the word "bankruptcy" as a legal phrase; nor any evidence of its being used in a vulgar sense, the case cannot be taken as falling within the exceptions. The rule, then, is to be applied. He remarked, that it was possible some might say that Vattel was no authority on the question. To this he would answer, that he did not consider the rule as authoritative because it was written by Vattel, but because it was a dictate of good sense, proper to be used in any age, nation, or country, for the purpose of ascertaining the meaning of written instruments.

He then observed that he would endeavor to answer some objections to the power of Congress, as contemplated to be exercised by the passage of the bill, by a gentleman from Virginia, (Mr. STEVENSON.) That gentleman objected that the bill would be an *ex post facto* law, and in violation of the third member of the 9th section of the first article of the National Constitution, which prohibits Congress from passing such laws. To this objection he would answer, 1st. That, if the exposition which he (Mr. M.) had exhibited of the term "bankruptcy" be correct, the prohibition must be considered as a general one, subject to the exception of the power to pass a bankrupt law which should be retroactive in its operations. This is justified by the well known sensible rule, that every part ought to have some operation and effect, if it may be done by any reasonable intendment or construction. 2d. The principles of the bill are not within the terms of the prohibition. Many legal characters are of opinion that the prohibition only relates to criminal matters; but he (Mr. M.) did not believe that the words *ex post facto* ought to be so strictly taken; they are Latin words, which he supposed ought to be rendered "after the fact;" and, as he thought the prohibition precluded Congress from passing laws to render any facts criminal which had happened before the passage of such laws, and were not criminal at the date of the facts; and, also, to prohibit Congress from passing laws to divest individuals of rights dependent upon pre-existing laws and facts. The last idea embraces all that great division of rights, or things in action, which lawyers term actions *ex delicto*. This import of the prohibition is strengthened, by looking into the 10th section of the same article, in which the States are, in like manner, prohibited from passing *ex post facto* laws, and, by the terms of the same prohibitory clause,

they are also prohibited from passing laws to impair the obligation of contracts. The latter prohibition secures the rights of the citizens in every thing in action dependent upon contract; and, if the construction above contended for obtains, the other branch of the prohibition secures all the rights dependent upon wrongs; but, if it does not, all the rights of one class, dependent upon the wrongful acts of another, are unprotected. He could not believe that the Convention intended to be thus careful in guarding one great class of rights, and at the same time leave the other great class unprotected. He then remarked, that, under the view of the prohibition to pass *ex post facto* laws just given, no violation could be found in the bill, because, upon examining the bill, it would be found that claims, founded upon torts, were not within its provisions; so that, after the passage of the bill, rights of this class may be enforced as before, and the responsibility will continue as before. The claimants of this class are left to run the race of the law with the others.

The same gentleman had contended that the bill, if passed, would impair the obligation of contracts in releasing debtors from future liability after obtaining certificates of bankruptcy. To this he (Mr. M.) answered, 1st. That, if his view of the Constitution was correct, that power was expressly given for the reasons urged by him. 2dly. He contended that the law in force, when contracts are made, must be considered as being in the view of the parties contracting, and must be taken as limiting and fixing the extent of the liability of the obligors: in the cases, then, within the terms of the bill, there was in full force a fundamental rule, under which the liability of the debtors might be determined, upon surrendering up their estates, and so no impairing of the obligation of the contracts, as they ought to have been understood. 3dly. He contended that Congress are not prohibited from passing laws to impair the obligation of contracts. The omission of the prohibition on the part of Congress, when it is so distinctly written, as to the States, affords a strong ground from which to infer that it was intended Congress might exercise it with reference to those cases of contracts, respecting which it might legislate. 4thly. He contended that the humane views of the convention would be marred very much, if not defeated, by confining the operation of the law entirely to cases arising after its passage; and the same may be said of the equal distribution among creditors contemplated by the bill.

The same gentleman had contended that the passage of the bill would violate the latter member of the fifth article of the amendments to the national Constitution, providing that private property shall not be taken for public use without just compensation. He (Mr. M.) thought it a sufficient answer to this objection to say, that there was to be no taking of property for public use at all; that the bill contemplated merely a taking for the use of the creditors of a bankrupt; the whole was to be an affair of distributive justice.

He then said he would answer some of the most prominent of the objections urged against the pas-

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

sage of the bill to prove it inexpedient. The three gentlemen who had spoken in opposition to the bill, (Messrs. STEVENSON, SMYTH, and MALLARY,) displayed great zeal in urging, as an objection, that the bill, if passed, would tend to encourage and multiply frauds. They repeated the objection so frequently, so confidently, and with such apparent earnestness, that a person unacquainted with the provisions of the bill might have inferred that some new elements, for the constitution of frauds, were about to be brought into operation—that some new motives to the commission were about to be presented, and new facilities afforded. He (Mr. M.) said he had never expected, nor did he now expect, that the passage of this bill would clear the country of frauds; he would look for no such consequence from the passage of any law. The utmost extent of his hopes from this law would be the lessening the number. He said, that the gentlemen who urged this objection ought to have shown that some new or stronger motives to the commission of frauds would result from the passage of the bill, or that some facilities would be afforded. He thought that the gentlemen had wholly failed to do so.

He said, he thought by contrasting the motives to fraud under the present state of the laws with the principles of the bill, and motives after its passage, the result would be found favorable to the proposed change. Under the laws now in existence, a debtor is tempted to commit fraud by the desire to retain and use his property, to which is to be added his perpetual liability, with all the embarrassing and oppressive consequences of such liability. Under the change, he will be tempted by the desire to retain, but that will be lessened by the assurance that, if he surrenders up honestly, he will be released and permitted to start anew with the chance of being useful to himself, his family, and his country. In the one case there is a strong positive motive, more, another strong motive; in the other, there is a strong positive motive, less, another strong motive to the contrary course. He said, he thought it a fair inference that the number of frauds would be lessened.

He remarked, that a gentleman from Virginia (Mr. STEVENSON) had read from a large book some depositions taken by a committee of the House of Commons in Britain, which he (Mr. STEVENSON) seemed to believe, with great confidence, went to prove, beyond all doubt, that the bankrupt system in Great Britain had wholly failed to secure the objects contemplated by the British Legislature. He (Mr. M.) remarked, in answer to these depositions, that he did expect, when the gentleman commenced, that he would end with reading the copy of a repealing act, but of that he had not heard. He remarked, further, that he believed almost any committee could procure opinions, on oath, to support whatever point of policy such committee might be disposed to favor. He also observed, that he thought it a full answer to the gentleman's depositions that, after about two hundred and fifty years experience, the British Legislature still retained their bankrupt system; to which may be added a very strong argument

in favor of a system here, which does not exist in Britain.

The gentleman from Virginia, last mentioned, seemed to be very much shocked with the investiture of power, contemplated in the bill, to search for and seize the bankrupt's effects; and, to render the matter still more shocking, he imagined a lady and her bed chamber to be a part of a case. In answer to this, Mr. M. observed, he thought the gentleman's feelings were almost too highly refined; that they were too much so for him. He admitted that he had been reared up in the wilds of the West, and might be a little on the Vandal order. He remarked, that he had a sort of a rude notion of justice, that would incline him to throw aside such delicate considerations, when they stood in the way of its attainment. He saw no great difficulty in the way. When the officer arrived with his authority, any prudent lady would permit him to perform his duty. He remarked, further, that if a case occurred in which the husband, with a view of defrauding his creditors, should turn his estate into rich shawls, lace, and jewellery, and lock those articles up in his wife's bureaux, &c., to be used from time to time, as occasion might require, he would not hesitate to say that the chamber ought to be entered, and the bureaux broken into. He then observed that, rude as his notions and feelings might be, he had not a doubt but that all the really well educated ladies of good sense, and good moral feelings, would accord with him. A lady of such a character, upon being apprized of the officer's business, would cheerfully comply; she would say with exultation, let my husband be relieved from the oppressive weight of his debts, leave the family to enjoy the benefits of my needle work, and the fruits of my husband's future exertions, and take all.

A gentleman from Virginia (Mr. SMYTH) supposed the right to the writ of habeas corpus was in some way violated by the 40th section of the bill. In answer to this objection, he (Mr. MONTGOMERY) observed, that the gentleman was wholly mistaken; that he must have misread the section. He said, that, upon examining the section which he then read, no prohibition to the issuing of the writ could be found. It was true, that the judge, upon the return of the writ of habeas corpus, is prohibited from discharging because of a defect in the form of the warrant. This, he (Mr. M.) said, was not a new doctrine; it was a just declaration of the old law. He said, he believed no case could be adduced, where a judge who was competent to the discharge of his duties, had discharged, on account of a mere formal defect in the process under which the commitment had taken place. He then stated the doctrines which ought to govern a judge upon the return of a writ of habeas corpus. He is to discharge where no legal cause for the imprisonment can be seen in the process; to bail, if the nature of the case requires it; or to remand, when the nature of the charge, and the law, requires that course.

He then remarked, that the same gentleman (Mr. SMYTH) had objected to the law, its great rigor, and had supposed that if a son should, after

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

its passage, commit an act of bankruptcy, and then make a friendly visit to his father, and stay a few days, he would be liable to a year's imprisonment, under the 24th section of the bill. To this Mr. M. answered, that the case put by the gentleman would not come under the 24th section at all. That section inflicts the penalty upon those guilty of a wilful and knowing concealment: now, as the gentleman has neither supposed a knowledge on the part of the father, nor a concealment, it is just as clearly out of the law as any case which his imagination could have created.

The same gentleman complained most bitterly that the mansion house might, under this bill, if passed, be broken and entered. To this Mr. M. answered, that it was true that, under the common law, the House could not be entered by virtue of an execution against the possessor, so long as the outer door was fast; but that the doctrine only protected the person and property of the owner of the House. This doctrine, he (Mr. M.) believed, in its present extent, was absurd. He could see no good reason why a person who was greatly indebted should be permitted to lock up his goods and chattels, and hold justice for nothing. It would be well to protect a man during the night, but no farther or longer.

The same gentleman seemed to suppose that the gentleman from Pennsylvania (Mr. SERGEANT) had committed a serious mistake in stating that Holland and Scotland had long since adopted bankrupt systems; and goes on to correct him, by showing that the system had been only recently adopted in those countries. In answer to this, Mr. M. remarked, that, although the gentleman's correction, in point of fact, may be true, yet it is a plain inference from the fact that those countries had at last given evidence in favor of the system; and the force of the evidence was not in any degree weakened by the reluctance with which it was given.

A sort of abstract of the proceedings in cases of bankruptcy, under the act of Congress, passed in the year 1800, has been procured, and much reliance, no doubt, will be placed upon it, as showing that the experiment had been made, and that it had not been found salutary. Upon this document, Mr. M. observed, that there were about sixty-one cases reported in which certificates were granted, but no dividends were declared. This lack of a declaration of dividends might have resulted, either from a compromise between the creditors and bankrupts, or from the total want of funds; neither of which proved anything against the law. There are one hundred and sixty-seven cases reported in which no proceedings or dividends are reported. The fair inference, with respect to these cases, is, that the whole, or the greater part of them, were compromised in a satisfactory manner. From them no argument can be drawn against the law, but a very strong one in its favor. A few, and comparatively a very few, about seven, are reported which have not yet been settled. From these no argument against the law can be drawn, because, taking into consideration the great extent of the dealings of some

mercantile men, and comparing the lapse of time with that which a suit in chancery respecting a single transaction will often occupy, and it is not at all strange that some of those cases may have lasted twenty years. There are about twenty-six cases in which the dividends are specified, some of which are small certainly; but no objection against the law can be drawn from that fact. The law could not increase the funds of those upon whom it had its operation.

A gentleman from Vermont (Mr. MALLARY) stated, that there had sprung up recently a host of merchants, without capital or skill, who had been making a prodigal use of the means in their hands. To these he said he was not disposed to extend any sort of relief. In answer to these remarks of Mr. MALLARY, Mr. M. said he believed there was much truth in the facts; but he wholly disagreed with him in his opposition to relief. He (Mr. M.) was willing to afford them the relief contemplated in the bill; and he was the more inclined to do so, because it would enable their creditors to get something before it was all wasted. He said he verily believed, that the sooner the affairs of such characters could be adjusted, the better for the people generally; that he believed a strong sympathy existed in some parts of the country in favor of the very characters which the gentleman had described; so strong in some places, perhaps, as to turn the current of legislation away from its proper objects. Under this view, he wished most sincerely to afford them the relief proposed in the bill, hoping that many of them might become useful to themselves, to their families, and to their country; and believing, most confidently, that the bill could produce no state of affairs, more to be deplored, than that which now existed.

Mr. M. then concluded, that he had no doubt, but that Congress possessed the power under the National Constitution of passing the bill as it now stood; but he would be disposed to make some amendments; that it was a system in a peculiar manner applicable to mercantile and trading men, and would be expedient in any country, having an extensive commerce; and that it was in a higher degree necessary and expedient in our country than any other, owing to the complicated structure of our political institutions.

He said he could not conclude that fraud would be wholly extirpated, but he confidently believed the number would be greatly lessened, and that a number of worthy but unfortunate people would be restored to a condition to be useful members of society; and that, if this could be done without rendering the condition of other classes worse, it ought to be done, and that such would be the result he could not doubt.

MR. BLAIR, of South Carolina, said, that the most important provision of the bill before the House, and one to which he never could assent, was that which declared that the debtor, who shall finally deliver up his property, shall be released from all future obligation to pay the debts which he may have contracted.

Let us examine the operation of such a provision, said he, to determine, not its policy, but its

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

justice and honesty. •Let us suppose, sir, that I have obtained from you money or property—I have promised to return them or to pay their value. They have been employed, perhaps, to give support to my family or education to my children. I am unfortunate, however, and cannot pay the debt. It is just and humane for the law to interpose and protect me from a grievous imprisonment which would be useless to my creditor. Let this be done. But suppose that more prosperous times succeed. By legacy, or good fortune, or by my own exertions, I at last regain the means of paying for what you lent or sold me—I promised to pay you and have now the power—shall I be bound in morals and not in law to fulfil my promise? If I should ask the advice of any member of this House, is there any who would tell me I am not bound to pay the debt, not because I am unable now, but because I was unable two years ago? And that advice, which no man could give without infamy and dishonor, does he wish that the laws of his country should proclaim and enforce? Sir, it is a miserable delusion to think that policy can recommend any thing which sound morals reject. He who cannot perform a promise or pay a debt, should be excused, because he is unable to do it. But, whenever the inability ceases, the obligation should recover its full force.

It is true that bad men, as the laws now stand, will secrete their property and defraud their creditors. It is to be regretted that laws are not always sufficient to detect or prevent those abuses. But does that consideration justify this bill? Must we do mischief because we cannot always prevent it?

The spectacle, in a large city, of one wealthy man enjoying in luxury a fortune which his needy creditors and their starving children cannot touch, who is protected from justice by the laws which say that he is not bound to pay now, because he was unable to pay formerly—such a spectacle as this, I say, will do more injury to the virtue of a community than a thousand moral sermons and lectures are able to repair.

But, sir, the creditors will not only lose their obligations on their debtors by this bill, but they will frequently lose the whole remnant of the bankrupt's estate. The necessary expenses of executing a commission of bankruptcy are so great that they will generally swallow up the whole wreck of the bankrupt's fortune, and sometimes bring the creditors in debt. If something like this was not anticipated by the framers of the bill, whence the necessity of taking a bond and security on the creditors for one thousand dollars to pay costs? Sir, this bill is principally calculated for the benefit of the dishonest speculator and the host of civil officers necessary to carry it into operation. Examine the documents* on your table.

* Documents furnished from sundry district courts, agreeably to a resolution of the House, exhibiting the number of cases in which commissions of bankruptcy had issued under the law of 1800, the number of cases settled, the dividends made to creditors, and the amount of expenses in each case.

They speak for themselves. They show that, of the great many cases in which commissions of bankruptcy issued, a very few have been settled; that the dividends to creditors, where any have been made, have been extremely small, and the expenses enormous. And where is the profit, or, if you please, the policy of such a law? Does any man think it would add to the creative industry of the country? No. The unfortunate bankrupts will not turn out and build houses and level forests: they will return to their old department of industry, which, though a useful and necessary one, is one in which the number of those who can support themselves is limited. There would be some pretence for the bill on the score of policy, if there prevailed in the United States such a dislike to mercantile employment that we could hardly find men that would leave the country and engage in trade. But who believes that in this country it is necessary to encourage speculation by law? Sir, we have too much of it already. Its excesses have distressed every class in the community, and have embarrassed the whole country. If one hundred thousand merchants are to be added to the present number, the condition of the whole must soon be as miserable as that of any part is now. But suppose the effect to be, that those who are not bankrupt retire from business, and that none continue in the trade but those who have failed in it? Is this the policy that bribes us to declare that promises shall not be enforced, and that justice shall not be done? A blind, wretched policy, indeed!

Entertaining the view which I do of the principle of the bill, I have not much disposition to examine its details; I look upon it, in some respects, as unconstitutional, and as opening a wide door to fraud and perjury, although it pretends, sedulously, to guard against them. But, if the object were right, what are the means by which it is to be effected? We determine to erect a tribunal to decide the cases in which promises shall be dissolved and debts released. It should be, as far as men can be, without passion and without weakness. The framers of this bill seem to think differently; and, in determining that the creditors shall decide, judicially, the fate of the bankrupt, they compose their court of honest creditors who are often hardened by a sense of injury, and of dishonest ones, who must judge the accomplice of their crime. The man of bad character who cannot get a certificate from the creditors when he owes ten thousand dollars, has only to treble his debt to give whatever he has to his last creditors, who then receive, perhaps, as much as they were in justice entitled to, and who give their certificate as an evidence that they are not dissatisfied with the conduct which has ruined others, indeed, but not them.

We are told, however, by an honorable member from Pennsylvania, (Mr. SERGEANT,) that this experiment is due to the people, and to the Constitution which gives us the power of enacting such a law. But, unfortunately for this bill, and for the argument of the gentleman, the experiment has already been made; it was made by a law

FEBRUARY, 1822.

Proceedings.

H. OF R.

passed in the year 1800—which law, in all its essential features, was similar to this bill; and, although it was to continue in force only for five years, it had such an unpleasant and injurious operation on the community, that, in less than three years, all parties united in repealing it. This experiment, then, which the old law has had, furnishes the strongest argument against the present bill. The same honorable gentleman, whose talents and character I highly respect, tells us that this law is desired by a large majority of the commercial community. I have no doubt this is his honest opinion. But the great number of memorials and petitions from our mercantile citizens, in opposition to a bankrupt law, seem to authorize a very different conclusion.

Sir, the system about to be introduced here has been long tried in England, and that part of it which makes the liberation of the debtor depend on the certificate of the creditors is universally reprobated. The whole subject has lately been fully examined in that country. The operation of the system is represented as almost intolerable even there, where the people have been gradually accustomed to it. But the framers of this bill give us all the great defects of the British system without correction, and carry their admiration of English law so far that they are determined to build exactly on the same model; and while the English are engaged in pulling down those parts which are useless and injurious, we are desired to build them up according to the first pattern; to adopt, in substance, that very system of British bankruptcy which the wisest and best men of that nation have reprobated and condemned.

Sir, I am unwilling that we should cross the Atlantic again in quest of laws. I think we need not travel out of our own territory to find insolvent laws, at least, more just in theory, and more satisfactory in practice, than any of the bankrupt systems of Europe. I think they are to be found in many of our own States; and, until we can mature a general system of insolvency, or of bankruptcy, if you please, embracing all classes of the community, and founded on principles of reciprocity, equality, and justice, I wish the States still to govern the relations between debtor and creditor. I think this power may safely be confided to them. Under their exercise of it we have got on thus far pretty well; and, until they make an abuse of it, which is hardly possible, I for one am willing they should enjoy it.

Sir, I have not been tedious; but perhaps I ought to have been more brief. As the subject is important, and I am a young, inexperienced member, I consider it my duty to resign the discussion to greater abilities.

Mr. HEMPHILL rose to address the House, but the usual hour of adjournment having passed, the Committee rose, reported progress, and obtained leave to sit again. House adjourned to Monday.

MONDAY, February 11.

Mr. WILLIAMS, from the Committee of Claims, to which was recommitted the petition of Eli

Hart, for interest on advances made for the public service in the late war with Great Britain, together with their report thereon, made an additional report on the said petition; which was read, and committed to a Committee of the whole House to-morrow.

Mr. FRANCIS JOHNSON, from the Committee on the Post Office and Post Roads, made reports on the petitions of Amos Muzzy and Benjamin White, accompanied by a bill for their relief; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. TRIMBLE, the House took up the joint resolutions submitted by him on the 31st ultimo, acknowledging the independence of Colombia, and declaring that such other Spanish American provinces as have declared and are maintaining their independence, ought to be acknowledged sovereign and independent Governments: Whereupon, it was ordered that the said resolutions be committed to the Committee of the whole House on the state of the Union.

The SPEAKER communicated to the House the following letter, viz:

LEBANY, January 14, 1822.

SIR: The ill health of my family, and the necessity of attending to my private concerns, I hope in peace and quietness, the residue of my *precarious* days, have compelled me to retire from Congress, and to resign my seat in the honorable body over which you preside with so much honor to yourself and usefulness to the public.

In taking this step, I would do injustice to my feelings, were I not to express the sentiments of profound respect which I entertain for the House of Representatives, and the grateful sentiments cherished towards its members, for the uniform kindness I have experienced from them. I have the honor to be, &c.

SOLOMON VAN RENSSELAER.

HON. SPEAKER of the
House of Representatives.

Ordered, That the said letter lie on the table, and that the Speaker do communicate the fact of the resignation of Mr. Van Rensselaer to the Executive of the State of New York. It was also ordered, that another member be appointed of the Committee on Military Affairs, in the place of Mr. Van Rensselaer, resigned. Whereupon, Mr. WALWORTH was appointed of the said committee.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting information in relation to the Superintendency of Indian Affairs in the Territory of Michigan, and State of Missouri, and of the expenses thereof, communicated in obedience to a resolution of the 18th ultimo; which was read, and committed to the Committee of the Whole to which is committed the bill making a partial appropriation for the military service for the year 1822, and to supply a deficiency in the appropriation for Revolutionary pensioners.

The House took up the bill from the Senate entitled "An act supplementary to an act entitled 'An act to alter the terms of the district court in Alabama;'" and the bill was referred to the Committee on the Judiciary.

H. OF R.

Civilization of the Indians.

11 FEBRUARY, 1822.

An engrossed resolution directing the classification and printing of the accounts of the several manufacturing establishments and their manufactures, collected in obedience to the tenth section of the act to provide for taking the fourth census," was read the third time, and passed.

The bill from the Senate entitled "An act authorizing the transfer of certain certificates of the funded debt of the United States," was read the third time and passed.

MAIL THEFTS.

On motion of Mr. FARRELLY, the Committee on the Post Office and Post Roads were instructed to inquire into the practicability of facilitating the means of discovering thefts, destruction of, or opening and mutilating letters, committed by deputy postmasters, their agents, and mail carriers; and also into the propriety of enacting severer and other penalties against those who may be convicted of such offences.

Mr. FARRELLY observed, that the insecurity of conveyance by the mail was so general as to destroy its utility. Complaints came loudly from all quarters. He said he was certain the Postmaster General had used all the care and vigilance in his power to detect and prevent thefts in the post offices; but he has found them to be ineffectual. Something surely can be done, if not to remedy, at least to mitigate, the evils so loudly complained of. We all know with what ease the recommendations for offices can be procured; these we cannot prevent. Perhaps by enabling the county courts in which the respective officers are, to issue a commission of inspection, or giving them a visitatorial power, the fraud might be prevented. I have been led more particularly to this subject, by information received from my district. Not long since, a sum of nearly a thousand dollars was sent in a letter from Erie, in Pennsylvania, to Salina, in New York. This letter never arrived; it was traced to Buffalo, but beyond that all scrutiny was useless. I have also learned that a letter containing two hundred and seventy dollars, sent from Philadelphia to Warren, in my district, has never been received. I have been informed that another letter, sent from Meadville to Pittsburg, has also been lost. Since I came here, I received a small sum of money for a public institution at Meadville, which I transmitted by mail; it has never been received. We have not heard of any robbery of the mails; these thefts must have been committed by the postmasters. Indeed, the injury done the public by them, in this way, far outweighs that done by robbery of the mails. Something, I am persuaded, can be done to render these crimes less frequent. I do not recollect to have read of any trials in England of postmasters for stealing letters on the way. The trials are for robberies of the mails, and thefts after the letters arrived at their destination. The latter part of the resolution I deem necessary. The common law maxim is, that the punishment ought to be severe, in proportion to the facility of committing offence. In this case, the postmaster is secluded in his office, and he commits a double

crime—one against the law, the other against the confidence reposed in him by the nature of his office.

A modification was proposed by Mr. WALTHORTH, and a further modification by Mr. LATHROP, which were severally assented to by the mover and agreed to by the House, which brought it into the shape in which it is above stated.

CIVILIZATION OF THE INDIANS.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives:

In compliance with a resolution of the House of Representatives, "requesting the President of the United States to cause to be laid before this House any information which he may have of the condition of the several Indian tribes within the United States, and the measures hitherto devised and pursued for their civilization," I now transmit a report from the Secretary of War.

JAMES MONROE.

WASHINGTON, Feb. 10, 1822.

DEPARTMENT OF WAR, Feb. 8, 1822.

The Secretary of War, to whom was referred the resolution of the House of Representatives, "requesting the President of the United States to cause to be laid before this House any information which he may have of the condition of the several Indian tribes within the United States, and the progress of the measures hitherto devised and pursued for their civilization," has the honor to transmit the enclosed table, marked A, containing the number of schools established under the patronage of the Government, within the Indian country; the number of scholars at each; the time of their commencement, where fixed, and by whom established; with remarks on their progress, present condition, &c. By reference to the table, it will appear that there are eleven principal schools, with three subordinate ones, in actual operation; and that there are several in a state of preparation; and that the number of scholars, at the last return, at the principal and subordinate schools, amounted to five hundred and eight. On these schools there has been expended \$15,827 56, of which \$7,447 56 have been on account of buildings, and the balance, \$8,380, on account of the expense of tuition. It is made a condition of the subscription on the part of the Government, that the schools should be established within the Indian country, and that the system of education, in addition to reading, writing, and arithmetic, should, for the boys, embrace instruction in agriculture, and the ordinary mechanic arts, and for the girls the common domestic industry of that sex.

It was thought advisable, at the commencement of the system, to proceed with caution, and to enlarge the sphere of operation as experience should indicate the proper measures to be adopted, by which an useless expenditure of public money would be avoided, and the system adopted for the civilization of the Indians have the fairest trial. Experience has thus far justified those which have been adopted; and it is accordingly intended to give, this year, a greater activity to the funds, of which a much larger portion may be applied to tuition, the necessary buildings at so many points having already been erected.

Whether the system which has been adopted by the

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

Government, if persevered in, will ultimately bring the Indians within the pale of civilization, can only be determined by time. It has been in operation too short a period to pronounce with certainty on the result. The present generation, which cannot be greatly affected by it, must pass away, and those who have been reared under the present system of education must succeed them, before its effects can be fully tested. As far, however, as civilization may depend on education only, without taking into consideration the force of circumstances, it would seem that there is no insuperable difficulty in effecting the benevolent intention of the Government. It may be affirmed, almost without qualification, that all of the tribes within our settlements, and near our borders, are even solicitous for the education of their children. With the exception of the Creeks, they have every where freely and cheerfully assented to the establishment of schools, to which, in some instances, they have contributed. The Choctaws, in this respect, have evinced the most liberal spirit, having set aside six thousand dollars of their annuity in aid of the schools established among them. The reports of the teachers are almost uniformly favorable, both as to the capacity and docility of their youths. Their progress appears to be quite equal to that of white children of the same age; and they appear to be equally susceptible of acquiring habits of industry. At some of the establishments a considerable portion of the supplies are raised by the labor of the scholars and teachers.

With these indications, it would seem that there is little hazard in pronouncing, that, with proper and vigorous efforts, they may receive an education equal to that of the laboring portion of our community. Still, however, the interesting inquiry remains to be solved, whether such an education would lead them to that state of morality, civilization, and happiness, to which it is the desire of the Government to bring them, or whether there is not something in their situation, which presents insuperable obstacles to such a state? To answer this inquiry, we have but little experience. There is certainly much encouragement to hope for the best, from the fact that the Cherokee nation, which has made the greatest progress in education, has also made the greatest towards this desirable state, but the experience which it affords is yet imperfect. They have adopted some written provisions for their government, to a copy of which, with an extract of a letter from the Rev. Mr. Steiner, a respectable Moravian, who has visited the nation at the interval of twenty years, and states the progress which they have made in that time, and which accompany this report, marked B, I would respectfully refer the House, as furnishing the best testimony of the actual progress which that nation has made towards civilization. The zeal of the Cherokees for improvement, and the progress which they have made, are further evinced from the liberal provision for a school fund, for which the last treaty with them, ratified on the 10th of March, 1819, stipulates, and the fact that there are now established in the nation six schools, (two of which are upon the Lancasterian system,) containing in the aggregate about two hundred and thirty scholars. Notwithstanding these favorable appearances, many obstacles, difficult to be surmounted, will impede the progress of the Indians to a state of complete civilization.

Without adverting to others, the political relation which they bear to us is of itself of sufficient magni-

tude, if not removed, to prevent so desirable a state from being attained. We have always treated them as an independent people; and, however insignificant a tribe may become, and however surrounded by a dense white population, so long as there are any remains, it continues independent of our laws and authority. To tribes thus surrounded, nothing can be conceived more opposed to their happiness and civilization than this state of nominal independence. It has not one of the advantages of real independence, while it has nearly all the disadvantages of a state of complete subjugation. The consequence is inevitable. They lose the lofty spirit and heroic courage of the savage state, without acquiring the virtues which belong to the civilized. Depressed in spirits and debauched in morals, they dwindle away through a wretched existence, a nuisance to the surrounding country. Unless some system can be devised gradually to change this relation, and with the progress of education, to extend over them our laws and authority, it is feared that all efforts to civilize them, whatever flattering appearances they may for a time exhibit, must ultimately fail. Tribe after tribe will sink, with the progress of our settlements and the pressure of our population, into wretchedness and oblivion. Such has been their past history, and such, without this change of political relation, it must probably continue to be. To effect it many difficulties present themselves. It will require the co-operation of the General Government and the States within which the Indians may reside. With a zealous and enlightened co-operation, it is, however, believed that all difficulties may be surmounted, and this wretched, but in many respects noble race, be ultimately brought within the pale of civilization. Preparatory to so radical a change in our relation towards them, the system of education which has been adopted ought to be put into extensive and active operation. This is the foundation of all other improvements. It ought gradually to be followed with a plain and simple system of laws and government, such as has been adopted by the Cherokees, a proper compression of their settlements, and a division of landed property. By introducing gradually and judiciously these improvements, they will ultimately attain such a state of intelligence, industry, and civilization, as to prepare the way for a complete extension of our laws and authority over them.

Before I conclude, I would respectfully refer the House of Representatives, for more full and detailed information in relation to the progress made by the Indians in civilization, to the report of the Rev. Doctor Morse, which was laid before the House in pursuance of a resolution of the 22d January last.

All which is respectfully submitted.

J. C. CALHOUN.

To the President of the U. S.

The Message was referred to the Committee on Indian Affairs.

THE BANKRUPT BILL.

The House then again resolved itself into a Committee of the Whole, on the bill to establish a uniform system of bankruptcy.

Mr. HEMPHILL, of Pennsylvania, expressed his disinclination to consume the time of the House, and remarked that, generally, he preferred listening to others rather than to speak himself. But this was an occasion of such magnitude, that he thought any one was excusable in throwing in his mite,

however trifling it might be. He was aware, he said, that the ground of controversy had been pre-occupied, not only in this House, but in the nation, and that it only remained for an individual member to arrange the general reasoning on the subject in his own way; nothing interesting or materially new could now be expected.

The question, he said, as it appeared to him, was, Whether it was good policy to establish a law respecting merchants, differing from the general law, in relation to debtors and creditors? He would confine his observations, he said, at the present, to two descriptions of citizens—the cultivators of land and the merchants. As to other classes, whether they approach nearer to the one or the other, it was a subordinate consideration, and could be attended to in the details of the bill.

Is there not, he asked, an essential distinction between the occupations of the cultivators of land and the merchants, supposing each to be actuated by correct principles, and each to practise the same precaution?

The farmers, he said, were exposed to few risks against which common prudence could guard; they were enabled to foresee almost every thing that could materially affect them, except as to the failure of crops and the future state of the markets; and, if their expectations should be disappointed in these, it would only affect their income, but could not endanger the mass of their estates. If, indeed, they will depart from the line of their own business, and embark in hazardous speculations, which good policy cannot encourage, they must take chance of the consequences. It was scarcely conceivable, he said, how a man that owned a farm could fail, unless it was, in a considerable degree, by his own imprudence. Commercial pursuits, Mr. H. observed, were of an entirely different character. Commerce never was, and it is probable that it never will be, carried on without credit. Without credit this country could not maintain a fair competition with foreign merchants.

As to the situation of a merchant, Mr. H. remarked, that hazard was inherent in the very nature of his employment. He is subject to a vast variety of risks—to the fluctuation of markets—to foreign decrees—to commercial restrictions of other countries and his own—to sudden declarations of war, and unexpected conclusions of peace—to the ruinous failure of others, and to the dangers of the sea. However prudent and cautious, these are contingencies against which human foresight cannot guard, nor insurances afford a complete protection. The last war, Mr. H. said, impoverished many of our merchants.

Mr. H. observed, that he considered the landed as the leading interest in this country; and any measure that would be injurious to that, cannot, in the end, be beneficial to the nation. It stood, however, in no danger from legislation in Congress; it was too powerfully represented; the owners of the soil will always hold the reins of Government in their own hands: but are not they, he asked, interested in commerce? The merchants are their carriers and give value to their products. This country, he said, was greatly indebted to

commerce for its rapid advancement and prosperity—it has given rise to our large and populous cities, which consume much of the produce of the country; it has increased national wealth and extended its resources; it has aided in the introduction of the arts and sciences, and in the general improvement and cultivation of the country; and, by the revenue derived from imposts, it has avoided the necessity of direct taxation. Is it not politic, then, in the farmers, to foster, by every reasonable encouragement, so useful a class of citizens? Ought they not to inquire whether their own merchants were placed upon an equal footing with the foreign merchants, with whom they are obliged to deal? Here, Mr. H. adverted to the circumstance, that, if a foreign merchant was indebted to a merchant of the United States, he could be relieved by the bankrupt laws of his own country—while, if our merchants are indebted to those of a foreign country, they are to remain liable, without a hope of being extricated from their embarrassments. This, Mr. H. considered, as an unequal and unfair advantage.

Mr. H. said, that the origin of the bankrupt system, and the periods in which it had been introduced into other countries, had been mentioned by his honorable colleague (Mr. SERGEANT.) But the honorable gentleman from Virginia (Mr. SMYTH) has alluded to Holland, and says that it has been lately embraced in that country, and that commerce flourished there without its aid. As to this circumstance, Mr. H. observed, that the Hollanders were the best judges of what the interest of their commerce required; they had had long experience; they were a people of great enterprise and success; and, after mature deliberation, and with a knowledge of its effects in other countries, they had adopted the system. The same experiment had been made in England. The first statutes did not exempt future acquisitions from liability; they treated the debtors as mere criminals. The statutes of Elizabeth first confined the system to merchants; but it contained a provision that, if lands or chattels were afterwards purchased by the bankrupt, or descended or come to him, they should be liable for his debts; a variety of laws were enacted on the subject before this principle was changed.

The 4th and 5th statutes of Anne, is the first that says any thing of a discharge; and it is followed by the 5th of George II., which makes an allowance to the bankrupt who surrenders and conforms to the provisions of the act—and further declares, that he shall be discharged from all debts owing at the time he did become bankrupt. This, Mr. H. said, gave time in a commercial country for a fair experiment as to the liability of future acquisitions; they had the experience of upwards of a century; and the English law at last settled down between the extremes of the institutions of the civil code, and was calculated to be favorable to both the creditor and debtor—the political doubt on this subject was, respecting the future liability; and experience must have convinced them, that no good was to be obtained by it; and that the advantage given to the creditor was more

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

valuable to him than the chance of deriving any thing from future acquisitions. They must have been satisfied of the futility of holding a man's debts over him, after the means of both property and credit had been taken from him. Mr H. said, it was remarkable that no nation that had adopted the system, and made a fair and full experiment of its operation and effects, had ever afterwards abandoned it. The principle in different shapes, of compelling the majority to yield to the opinion of a certain portion of the creditors, had been adopted in Scotland, Ireland, Spain, France, and Holland.

These examples, Mr. H. said, he thought were entitled to much respect; but the honorable gentleman from Virginia, (Mr. STEVENSON,) seems not disposed to be much influenced by them, because they are the institutions of monarchical governments. Mr. H. said, he was persuaded that the Committee could act with minds free and unbiassed in this respect; he alluded to many of our municipal regulations which were of foreign origin; the system, he said, had no connexion with the form of government. Shall we, Mr. H. asked, not respect the opinions and experience of many nations, and at the same time be influenced by the sentiments of a few individuals of one of the nation? It had been said, Mr. H. remarked, that the bankrupt system had been lately examined and reprobated by a committee in the British House of Commons; but all that had been shown only went to prove that abuses had crept into the administration of the system; the nation and Parliament are in favor of the system, or it would be abandoned. That abuses existed, he should not pretend to deny. It was incident to all human institutions; but many of the frauds described, could be practised with better address and success, in the absence of a bankrupt law.

Mr. H. said that it was undoubtedly the case, that there was a diversity of sentiment on the subject of these laws; but unanimity was not to be expected. What important laws, he would ask, had been passed in this country, against which there had not been a spirited opposition? Even the Constitution had been opposed by men of talents and virtue. But the law of 1800 had been pressed into the service, and it was said that this presented us with an experiment. He would not stop to inquire whether it was a party measure or not, although it was not to be denied that almost every measure of that day was a party measure; but of this he felt assured, that the continuance of that law was not sufficiently extended to afford a fair and full experiment; the nation had not been satisfied with the opinion of one Congress in other cases; it was not enough to test the beneficial operations of a law; for we had often seen, not only in the General but in the State Governments, that laws which had been once condemned and repealed, had been afterwards re-enacted. Such, he said, had been the case in relation to the Bank of the United States; the Navy, he said, after trial was unpopular; it had been reduced, and afterwards raised up again, and became the favorite of the nation.

At the time of the old bankrupt law, vast numbers who had failed before its passage, and whose property had been exhausted, anxiously pressed forward to take the benefit of it; the scene created unfavorable prejudices; but, to give it a fair experiment, time ought to have been allowed to see its effects upon a common and ordinary state of society—he meant its prospective operation. Besides, when that law was repealed, it was supposed that a power resided in the State sovereignties to make such laws for their own benefit and regulation; nor did he (Mr. H.) believe that it would have been then repealed if the cases of *Sturges vs. Crowninshield*, and *Milan vs. McNeil*, had been previously determined. Objections had been urged against the detail of the bill; it had been said to be hostile to our notions of liberty. Mr. H. compared it with the daily practice, as to personal liberty in other cases, and he contended that the bill contained no principle that was not congenial with our republican feelings and institutions; a man can be arrested, on a *capias*, for debt, and must go to jail if he cannot find security; he can be imprisoned on a *ca. sa.*; contempt is punishable by imprisonment, even from this high and republican body, down to a common justice of the peace. If a man who takes the benefit of insolvent laws should fraudulently conceal his property, on conviction he is sent to prison. Mr. H. said, it had been made an objection that 3,000 commissioners were to be appointed; he said the bill had not designated any number—the number was left to the discretion of the President; but they can be restricted when we come to the detail of the bill; at any rate, no more can act than are necessary to transact the business. Mr. H. then referred to the bill to show how very limited the powers of the commissioners were; on important questions the persons interested had an election, either to abide by the determination of the commissioners, or demand a jury trial—a man, if he chooses, cannot be declared a bankrupt unless by the decision of a jury; and in order to ascertain the existence of debts a jury trial is demandable, either by the assignees or any creditor of the bankrupt. The commissioners can commit the bankrupt, if he will not submit to be examined, or will not sign the examination—but even here there is an unusual latitude given to the operation of the habeas corpus; the judge can re-examine the decision of the commissioners, and if the bankrupt can show that he had fully answered, or had good reasons for not signing the examination, he is to be discharged.

It had been said that the bill had a tendency to encourage the facilities of obtaining credit and the perpetration of frauds. If this were the fact, it would be a powerful objection to the bill; but he contended that the reverse was the fact. It affected credit only by making the debtor stop, at a proper time, without rushing forward by a headlong desperation, until his affairs were irretrievable, and a large circle of friends and creditors involved in the general ruin. It had been objected that this bill authorized the breaking open of doors, which was said to be a high-handed violation of the sacred rights of habitation; to this he would reply that,

from the earliest periods, such a provision had existed in the English law; and it was somewhat remarkable, that, among all the complaints that had been made of the system, nothing of this sort had ever been urged, from the time of the tyrannical reign of Henry VIII. down to the present day. It was well known, by those best acquainted with the subject, that objections arose from another cause, not, he said, from any oppression of the debtors, but from the indulgence of the creditors, by which means abuses had crept into the administration of the system—some of the English provisions were too severe, and defeated the object intended—the present bill is a great improvement of the English system. Mr. H. said he would not remark on all the objections that had been made. At present it was sufficient to say, that, if any arbitrary features remained in the bill, they could be corrected when we come to its details—the advocates of the bill would cheerfully acquiesce in any amendments that would render it more perfect.

The question on striking out the first section involves the great principle, he meant the policy of discharging from liability, on any plan, the innocent and unfortunate, who can be no longer useful to society, and from whom the creditors can never be expected to gain any thing. Such a principle, he said, was more congenial with a republican government than that of any other. Where, he asked, is the morality, or sound policy, of suffering a few creditors to keep their fellow-beings in a constant state of dejection and misery, without even the least prospect of any advantage to themselves? Does not such a power resemble more the arbitrary rule of despotism than the mild and just principles of a republic? He said one of the most distinguishing features in our Government was to promote happiness—to protect the weak, and to prevent the practice of terror and oppression, either on the part of the Government, or any of its members.

The honorable gentleman from South Carolina, (Mr. BLAIR,) has said that it would be immoral to see a man in affluence who was not obliged to pay his debts; but, without the system, how is the failing merchant, who is surrounded with debts, to make a fortune? It is impossible; he might as well try to do any other act that was beyond the reach of human exertion. If an instance of the kind might occur in an age, it would be too rare to have any weight in the great scale of legislation. If, by means of the system, he should happen to arrive to a state of affluence, it must be left to his own moral sensations how to act, under the influence of public opinion; the law cannot interfere, or it would defeat its own object.

Mr. H. would not contend that an adoption of the system would utterly eradicate frauds. They would always exist under some form or other; but he argued that an adoption of the bill would tend to render them less frequent and less pernicious in their effects. He said it appeared to him that a bankrupt system was the wisest and the best that could be contrived to be applied to the

evils arising from a state of embarrassment; it affords to the fair merchant some hope; it holds out inducements to him to stop at a reasonable time and disclose his real situation, for the more he can pay the more he is allowed to enable him to start anew; and he knows that he can never succeed in business afterwards, if he had not, through his embarrassments, preserved a reputation for prudence and integrity. On the other hand, if he acts imprudently, or appears to be influenced by improper designs, it enables the creditors to take his property out of his hands, before all is wasted or concealed, to be equitably distributed among them, this he said would be its prospective effects.

Mr. H. observed that the system, although it differed in form, did not differ much in practice from the French system; that system contained a voluntary branch, in giving to the debtor a right, at any time, to summon his creditors for the purpose of delivering over his property to them. The cases of concerted acts of bankruptcy amounted nearly to the same thing; and could be productive of no harm.

The immensity of business transacted between the commercial cities constituted another reason, Mr. H. contended, why a uniform system should be established. The insolvent laws were dissimilar and inoperative out of the States. He said if we had had a short experiment of a bankrupt law, we have also seen the effects of the want of one. Here Mr. H. adverted to the situation of many thousands of our citizens, and asked if they had no claims on their country; their pursuits, he said, had been honorable, and their misfortunes, in most instances, unavoidable; their debts cut off all hopes of obtaining credit to begin anew; and if they had any expectation from relations or friends, assistance was dealt out to them in such morsels as did not enable them to resume business—they had families which they were incapable of supporting, for want of employment—they had not the means of entering into engagements of any kind—and from the habits of their lives it was too late to go to hard labor; their condition, he said, was deeply to be deplored; there was not an avenue by which they could escape from their misfortunes. Mr. H. then alluded to that class of unfortunate merchants who were ruined by the large importations that were made after the war; the public revenue, he said, was enriched, but the merchant was ruined. The single year of 1811 reduced more men to poverty than there were purchasers of Western land who were relieved at the last session. In that year scarcely a vessel arrived that did not bring news of confiscations and losses of every description.

The principle, Mr. H. said, upon which the Western purchasers of land were relieved is similar, in some respects, to the claim of the unfortunate merchants; they had purchased land at a certain price, but owing to a sudden change in the affairs of the country, the price of land fell, and they had a hard bargain; they were relieved to the amount of about seven millions. It was an object of public concern to prevent this class

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

of citizens from being great sufferers by their contracts.

In this extensive country, a spirit of conciliation must prevail; and it would not be good policy, Mr. H. contended, for members of Congress to say that they would not favor a law that was not wanted in their own section of country.

Mr. H. briefly remarked upon the Constitutional questions that had been raised; he said, it did not appear to him to admit of a serious debate.

It has been contended that Congress has no power to pass a bankrupt law that shall have a retrospective effect. Mr. H. thought he might challenge honorable gentlemen to show a bankrupt that gave a certificate of discharge in any other shape. The words of the Constitution are to be explained by the nature of the subject-matter to which they refer, and the general understanding concerning the subject at the time. There existed State bankrupt laws at that period containing this retrospective principle. The English statute of George II. was familiar to the members of the convention; and it declared that every bankrupt should be discharged from all debts owing at the time he became bankrupt. Prior as well as subsequent creditors could avail themselves of the act. The discharge from all future liability is one principal and leading feature in a bankrupt system. This was the usual and common manner in which the power had always been exercised. Under this clear understanding the Constitution was made. The power is given with the single exception that the laws shall be uniform.

If the convention had meant to depart from the usual way in which the power had been exercised, they would have expressed such intention. It is not impairing a contract; every contract is liable to the exercise of all Constitutional legislation. Previous to the Federal Constitution each State possessed this power; it is a known attribute of sovereignty; and it is taken from the States by the Constitution, and vested expressly in Congress.

Mr. H. concluded by observing, that it appeared to him that it was due to the magnitude of the question; that it was due to the large class of our fellow-citizens, who are distressed by their existing embarrassments, and that it was due to the commercial States to make one other experiment of the system; and if it should not give satisfaction, he thought then that the power should be permitted to revert to the States.

When Mr. H. had concluded—

Mr. COLDEN, of New York, called for the reading of the petition of the Chamber of Commerce of the city of New York, praying that Congress would pass a bankrupt law, and the petition of certain merchants and inhabitants of the first and second wards of the city of New York, and their vicinity, praying that the bill then under consideration might not be adopted. The Clerk having read those documents, Mr. C. proceeded to address the Committee.

He said he had called for the reading of these
17th Con. 1st Sess.—32

documents, not because he intended to make any particular reference to them in the address he was about to submit to the Committee, but because he considered it due to those who had required him to present the petition against the law, which had just been read, to let it be heard. He believed no petition on the subject had yet been read. He was the more desirous the petition which was last taken up by the Clerk should be submitted to the Committee, because the prayer of that petition was in opposition to the opinions he had formed on the subject under consideration; which opinions he meant now to express and to advocate. And as candor required of him this course in respect to the petition, adverse to his sentiments, he thought justice required that the other petition should also be read.

Mr. C. said, though he should not particularly refer to these petitions in the course of his arguments, he thought it due to the Committee and to the petitioners to advert to the characters of the petitioners.

The Chamber of Commerce was an ancient incorporated institution of the city of New York. Most, if not all those who deserved the name of merchants in the metropolis of the State were its members; certain he was, that he might say most of the respectable merchants of the city belonged to this corporation; its acts were the result of the deliberations of its members; and he believed there was no expression of the sentiments of the merchants of New York which might be so much relied on as the voice of the Chamber of Commerce.

On the other hand, Mr. C. begged it might be observed, that he admitted that those whose signatures appeared to the counter petition, many of them, at least, were persons of high character and standing, and among them were certainly some of our most respectable merchants.

But he could not but think that this petition afforded evidence, upon the face of it, that it had been signed without much deliberation, otherwise it was hardly possible to believe, that the many men of sense who were parties to it, would have put their names to an instrument so inconsistent in itself, and so inconsistent as to facts.

The petitioners aver that they anxiously wished for a law which, while it would relieve the honest debtor, would duly secure the creditor. They then proceed to state their objections to the bill under consideration, and because the provisions of this bill do not please them, they presume that Congress cannot frame such a law as ought to be passed; and so come to the conclusion that we ought to acquiesce in their opinions of our imbecility, and not attempt to legislate on this subject. But it will appear that the petitioners are altogether mistaken as to the provisions of the bill now before us; their principal objections are founded in misconceptions of the bill which the Judiciary Committee has proposed. Mr. C. said he would not longer dwell on this subject. He believed it was pretty well understood how petitions of this nature were, or might be obtained, and he trusted he might say without offence, that

signatures were often procured by solicitation and persuasion, and were often given with so little consideration, as not to be entitled to much weight in a deliberative assembly.

Mr. C. said he would most willingly have borne the task, for such he considered it, he was then about to perform. It was with great reluctance that he should afford the opportunity of contrasting his talents with those which had already been displayed on the one side and the other in the discussion of this subject. But the bill whose fate was now to be decided, was deeply interesting to his constituents; a great majority of whom, notwithstanding the petitions on the table, he verily believed, anxiously wished that a law of this nature might be passed. Under such circumstances, he did not feel himself at liberty to indulge his inclination to be silent.

However, said Mr. C., the rules of the House may sanction the course which has been pursued by the opponents of the bill, he could not think it was one calculated to attain the objects we ought all to have in view—that is, a full and fair discussion of the great principles on which the question, whether we ought or ought not to pass a bankrupt law, must depend. But instead of being confined at this time to these considerations, we have been, prematurely as he thought, led to an examination of the details and particular provisions of the bill. The objections which have been urged to these, might, for the present, be answered in a word, or in a sentence, at most. Do not, by this motion to strike out the first section of the bill, prevent our going into consideration of what is considered its objectional parts. When it will be proper to discuss these, we may agree to such modifications or alterations of them as will make them acceptable to all. Mr. C. said, he was himself opposed to several of the provisions of the bill. The impropriety of the course which had been pursued might be tested by supposing that he, as a friend of the bill, had proposed an amendment to any section which had been objected to. Would such a proposition have been received? Certainly not. Then it cannot be consistent with a due examination of the subject before us to dwell on objections which might be removed, if an opportunity of doing it were afforded. The only points proper for discussion at this time, were those which had been presented by the honorable member from Virginia, who first spoke in opposition to the bill. That is, whether Congress have power to pass the bill now before us; and if we have the power, whether it is politic or expedient to exercise it at this time. It was true, the gentleman from Virginia had, in some degree, aberrated from the course he had marked out for himself, and seems to have been incapable of resisting the temptation to find fault with some of the provisions of the bill. And, therefore, in following the gentleman from Virginia, Mr. C. said, he should feel himself at liberty to notice some few of the objections to the particular provisions of the proposed law, which had been presented by the gentleman from Virginia, and other gentlemen who had addressed the Committee on the

same side. Mr. C. said that the gentleman from Virginia had contended that, though the Constitution gave Congress power to pass a law which would discharge the person of a debtor, yet it had no power to pass such a bill as that now before us, which exonerated property acquired subsequently to the discharge.

Mr. C. said, he should entirely agree with the gentleman from Virginia, that the power to pass the bill before us—that is to say, a bill discharging the property as well as the person, was expressly given by the Constitution, or that Congress had no power to make such a law. Though he thought the power to pass a bankrupt law might as well be implied from the powers which Congress had to regulate commerce, as the power to grant a bank charter was inferred from any part of the Constitution; yet, he repeated, that he did admit, for the purpose of this argument at least, that there was no such power to pass this law, unless it was expressly given by the letter of the Constitution.

The Constitution has given Congress "power to establish uniform laws on the subject of bankruptcies throughout the United States." Mr. C. said that this phraseology was deserving attention, and seems to have been adopted to convey ideas more extended than the expressions which would be the most likely first to occur for granting a limited power to pass bankrupt laws. Had the Constitution merely said Congress shall have power to establish bankrupt laws, or all bankrupt laws, even then it would be difficult to say that there was any restriction as to the kind of bankrupt law which Congress might pass. But when the power is to pass laws on the subject of bankruptcies, is it not to be understood that Congress have a right to pass every kind of bankrupt law?

Mr. C. said, it seemed to him that this question would be answered by determining the meaning of the word bankrupt, or bankruptcy.

It had been justly said by the gentleman from Virginia, that Blackstone gave us no definition of the word bankrupt. He merely describes those who may become obnoxious to the English bankrupt laws, and points out the consequences of such liability. Neither would the English statutes assist us in our search for a definition. For he who might be a bankrupt at one time, according to the English law, was not so considered at another. Thus, the statute of Henry VIII., which was entitled "a law against such as do make bankrupt," applied to all persons. The statute of Elizabeth confined the application of the bankrupt law to traders. A subsequent statute of James extended it to scriveners. A law of Queen Anne absolved the subsequently acquired property, as well as the person, of a discharged bankrupt—and a statute of George III. extended their then numerous bankrupt laws to bankers, brokers, and factors; so that we cannot appeal to the English statutes for the definition we are in search of, unless we should be willing to admit that the word bankrupt must, at all times, mean whatever the British Parliament shall please to say shall be its signification.

Mr. C. said that we must, in this case, as in all

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

others where the meaning of a word in our language was in question, inquire as to its etymology, its definition by lexicographers, and its use by authors.

The honorable member from Virginia had expressed an aversion to such references, as having an appearance of pedantry. But, Mr. C. said, he knew not in what other channels the inquiry might be pursued, and hoped it would not be thought there was any ostentation in a reference to mere initial books.

Etymology, he admitted, was an uncertain, and often a fallacious, guide to the meaning of words. But where it happened to give a corresponding meaning with that derived from other sources, as in the present case, it might be taken into account. The word bankrupt was probably first applied to money-dealers. They, we may suppose, transacted their business on counters or benches. When they failed, were unable to pay their debts, or absconded, their counters were probably removed, or broken up; and therefore those who had occupied them were said to be bankrupt.

The dictionary definition of bankrupt, as will appear by that of Dr. Johnson, which I now see in the collection of books made for your use in this hall, and which must be admitted to be as of high authority as any other that could be appealed to, defines a bankrupt to be "one indebted beyond the power of payment." This definition evidently implies that, in the opinion of the author, the word bankrupt was not limited in its signification by any statuteable provisions; and we shall see, by again recurring to the statute of Henry VIII., that the word bankrupt had been adopted in our language, and had a precise signification before that statute was passed, and, of course, antecedently to any English statute on the subject. Mr. C. here read an abstract from the statute of Henry VIII., to show that the word bankrupt was not mentioned in the body of the law. That merely provided punishment for those "who craftily obtained the goods of other men, and fled or kept their houses, not minding to pay their debts, but consumed the substance obtained by credit, for their own pleasure against all reason, equity, and good conscience." It is well known that, anciently, there were no titles given to their acts by the Parliament itself. The titles were nothing more than the endorsement of the clerk, in forming which he was determined by the substance of the bill. So, in this case, having found that the act contained provisions against fraudulent and insolvent debtors, he endorsed upon it that it was "a law against such persons as do make bankrupt"—the word bankrupt was not found in any part of the bill. It cannot be doubted, then, that this word, bankrupt, has, at all times, had a meaning independent of legislative enactments, and did mean, and does yet mean, one in debt beyond the power of payment, according to the definition of Johnson; and one who fraudulently avoided payment, according to its application in the title to the statute of Henry VIII. Hence we may derive a definition of bankruptcy; and, as Congress have power to establish all laws on that subject, they have power to es-

tablish laws which relate to those who are in debt beyond the power of payment, or who fraudulently avoid payment of their debts.

If we have ascertained the meaning of the term bankrupt, there seems an end to the argument on this point. For Congress have power to pass all laws on this subject, as well laws which discharge the subsequently acquired property of the debtor as his person. It cannot, with any reason, be said that Congress has less than plenary powers in this respect; and it would seem absurd to contend that the very general and comprehensive words of the Constitution conveyed to Congress only the lowest grade of authority which a legislative body can exercise on this subject—that is, to exonerate only the person of the debtor.

But, though we should in vain appeal to the statute law of England, or of our own country, for the definition of the term bankrupt, yet we may refer to them to ascertain the sense in which the word was used by the framers of the Constitution; and, when we find that every law which existed in Europe, under the name of a bankrupt law, not only enabled the insolvent debtor to obtain a discharge of his person, but an exoneration of his subsequent acquisitions, can it be supposed that, in our Constitution, the term was used in a more restricted sense than it was used in all contemporaneous laws?

Mr. C. said these considerations had brought his mind to the most satisfactory conclusion, that, by the letter of the Constitution, power was given to Congress to pass the bill now under the consideration of the Committee.

But he would ask the indulgence of the Committee while he attempted to show, by another argument, which appeared to him perfectly conclusive, that Congress had the power in question.

It must be admitted that, previously to the adoption of the Confederation and the present Constitution, the United States were respectively free and independent sovereigns, having all the powers and attributes of sovereignty which ever belonged to any people on earth. They then unquestionably had power, in virtue of their sovereignty, to pass such a law as that on our table, or any other law not forbidden by the laws of God. But it has been determined by an authority, not inferior or subordinate to our own, that the individual States have not now this power. The supreme judicial tribunal, whose decrees cannot be questioned on earth, have said that the States have parted with this power. Where, then, is it gone? If you say that it is not surrendered to Congress, then you must say that a power, which originally belonged to the States, has passed from them, merely in virtue of their having confederated; and yet, strange as it may appear, it must be contended that this power is not vested in the Confederacy, or touched by the instrument of confederation. Sir, said Mr. C., if the power be not in the particular States, nor in the United States, I hope some of the gentlemen who are opposed to the bill will have the goodness to tell us by what process it has been dissipated.

But another ground has been taken by the gen-

temen who oppose the bill. Admitting, they say, that the power in question be expressly given to Congress by the letter of the Constitution, yet Congress should be restrained by a paramount authority—that is, by moral obligation; that the laws of morality forbid us to pass a law, by means of which a debtor may be exonerated from the payment of his debt without the consent of his creditor. Sir, said Mr. C., I am not disposed to inquire how far a provision of the Constitution might be controlled by considerations of this nature, and it seems to me to be taking a ground which must be very unexpected now to tell the people that the Constitution which they have given us is not to be considered as the supreme law of the land, because its precepts are, in our opinion, a violation of the laws of God. I think our constituents will be very likely to inquire whether we are so superior to those who framed the Constitution as to be better judges than they were of the obligations of morality.

The moral law is the same at all times and in all places. It arises from the general sense of mankind as to what is right and what is just.

Laws by which a debtor, who honestly surrenders all his property, may be discharged from the debt, so far as respects legal obligation, have existed from great antiquity. I do not say in the most remote times, because there was a time when some barbarous laws permitted the creditor to sell his unfortunate debtor, and even his family; yet more humane laws, such as that I am now advocating, had existence in very early ages.

In Europe, they have been coeval with the extension of commerce. In this country, which was then the colonies of England, her insolvent law of 1755, which discharged both the person and property of the debtor, was adopted by most of the colonies. Since the Revolution, such laws have been in force in most of the States; and the bankrupt law of 1800, though it was partially repealed in less than three years, has been in operation nearly a quarter of a century, and some thousands of adjudications have been rendered upon it by the venerable men who have successively filled the bench of your Supreme Court and other seats of justice. Can we believe that all mankind have heretofore been insensible to the force of moral obligation? Can we believe that the legislators, lawyers, and judges, of so many ages and so many centuries, have been so insensible of moral obligation as to pass, advocate, and support, laws by which it has been violated?

But it is not correct to say that a bankrupt law, like that which we are now considering, does discharge the debt or abrogate the contract, without the consent of the creditor or obligee. Every contract is made in subordination to the laws of the country. It must be understood by the parties that a contract shall be enforced only so far as the laws may permit, and that it may be released or discharged pursuant to provisions which may be made by law. Legislatures may, and frequently do, discharge the legal obligation of a contract, when there can be no question as to the continuance of the moral duty it continues to im-

pose. Take, for examples, contracts that are barred by the statutes of limitations, and all that class of contracts which are affected by the statutes of frauds—as, for instance a promise to pay the debt of another, not reduced to writing; a contract by parole to convey lands, and others of the same nature. All these, with whatever solemnity they may be made, are of no legal obligation, however they may be binding in conscience. So it is with contracts which may be affected by a bankrupt law. The Legislature interposes, and says how far the creditor shall have the aid of severity to enforce his demand. He shall not use it for the mere purposes of oppression. When the debtor surrenders all, no more shall be required of him—no human law can require more. If there were a contract to supply the waters of a spring, and by the act of God the source were to be dried up, who would say the obligor ought forever to live in misery and poverty, because he could not fulfil his obligation?

The idea that every member of a community is a party to its laws, and gives his consent to their enactment, is not novel, but has been sanctioned by tribunals whose opinions we are accustomed to respect. When vessels bound to Russia were embargoed in the English ports, previously to the rupture between these two countries, I think about the year 1807, it was decided that English subjects who had made insurance on these vessels against restraints and detentions of all Governments whatever, could not recover, on account of this detention, of their own Government, because they, as subjects of Great Britain, must be considered as parties to the act which caused the detention; and no one could be permitted to found a claim of this nature against another, upon his own act. Mr. C. said, he was not sure that he was entirely correct in his statement of these decisions as to the date or the facts, not having had it in his power to refer to any book, and being obliged to rely on his memory, after a lapse of many years from the time he had seen a report of the English cases; but he was sure he was right as to the principle adopted by the English courts. At the same time it was right to mention that, in some of the cases which grew out of the embargo and restrictive laws of this country, the abovementioned decisions of the British tribunals had been questioned in some of our own courts.

But, if this doctrine can be entertained in the British monarchy, where the representation of the people is but a mockery, on how much firmer basis must it rest in this country, where every individual of society is not only theoretically a party to every law, and by his immediate representative consents to every enactment? Is not a citizen who, by his member in this House, votes on the passage of a law, as much a party to that law as if he were one of a pure democracy, and a law were enacted by the voices of a majority of the assembled members of a Government of that description? It seems to me that the answer to this question must be in the affirmative, and that, when we resolve Governments to this element, that is, the will and assent of the people, the mind

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

does not hesitate to admit that every citizen must be considered as assenting to all the laws of the society of which he is a member; and, if the society pass a law to absolve an insolvent debtor, the creditor assents to that law.

It has been said, that though Congress can pass a law which may affect contracts made subsequently to its passage, it cannot touch prior contracts; and that the bill before us is vicious, because it is, in this respect, retrospective. First, let me say, if this be a just exception to the bill, let us go into a consideration of its particular provisions, in such a manner as that we may discuss them—and, if a majority should think the law should not have this retrospective aspect, it may be very easily altered. This is by no means an essential feature of the bill.

But, if there be any solidity in the argument I have offered, to prove that each citizen must be considered as giving his assent to every law, it will apply as well to contracts made prior to the passage of any legislative act affecting them, as to posterior contracts; for it must be remembered that the Constitution is the supreme law, to which, as well as to legislative acts, the assent of every member of the community is implied.

Mr. C. said, he would not trespass on the time of the Committee by attempting to offer further arguments on this branch of the subject. He would now ask their attention for a short time, while he noticed the objections which had been urged to the passage of the bill at this time, as being impolitic and inexpedient.

The honorable member from Vermont, on his left, admitted that there was a large class of worthy respectable men, whose characters were unimpeachable, and their prudence irreproachable, who were by misfortune reduced to poverty, and even to want. These, the honorable member admitted, had strong claims for relief; but he would not grant it to them because there were persons who, during our late war, had been engaged in a smuggling trade with the enemy on our borders, and because there were others who had, some many years ago, violated the restrictive laws then existing, by trading with foreign nations—and these might avail themselves of a bankrupt law. He hoped he might be permitted to say, consistently with the respect which he sincerely felt for the honorable gentleman from Vermont, and for the ability he had displayed on this occasion, that this was as extraordinary an instance of the influence of local and partial causes, as he had ever met with. Is it possible that we are not now to pass this bill, which, if it becomes a law, is to have an effect on ten millions of people—which is to relieve thousands of honest and industrious citizens from wretchedness and oppression—which is to shield the unfortunate and punish the fraudulent—which is to give stability to commerce at home, and redeem the character of the nation abroad;—is it possible, he inquired, that we are not to pass this law, because there may be on our borders some few smugglers or illegal traders, who may pervert its provisions as respects their own cases? If we are to have no laws but such as may never

be rendered subservient to the designs of the crafty and fraudulent, our legislative duties would be very circumscribed, and our code would be comprised in a very small compass.

But, sir, the friends of this bill have never entertained so vain a supposition as that, by its enactment, all fraudulent bankruptcies would be prevented, or that it could be so framed that its provisions might not be abused.

The question is not whether this work will be perfect, if we should, so far as we are able, complete it; but whether it will not better answer the purpose for which it is intended, than the existing laws of the States, modified as they are by the decisions of the Supreme Court. Let us for a moment, as an example, look at the operation of the attachment law of Vermont, which has been mentioned by the honorable member from that State. Let me ask the honorable member whether, by virtue of the attachment law, a creditor would be likely to secure more from the smugglers and illegal traders he has mentioned, than might be secured by such proceedings as are contemplated by the bill? Sir, I have heard that it is very common for a failing debtor, in Vermont, to put his property into the hands of friends, so that it may be out of reach of an attachment. That, when he has made this preparation for a failure, he places himself on the limits of some prison, and lives there at his ease while his creditors are suing those whom they may find out to be his debtors, or in whose hands they may chance to discover any of his property. I would ask the gentleman from Vermont what portion of the business of the courts of that State consists in allegations of this nature. If I have been rightly informed, these suits against garnishees, as I believe they are called, occupy a very considerable portion of the time of every court in the States where these foreign attachments are allowed. [The member from Vermont here interrupted Mr. COLBEN, and spoke in explanation.]

Mr. C. said that, in respect to the State of Vermont, he spoke under correction of the gentleman from that State, and should not, for a moment, think of opposing the information he had derived from mere casual conversation, to the statement which had just been made. Indeed, Mr. C. said, his information, as to the operation of the attachment laws, related more to other States where they prevailed than to Vermont. He supposed the operation of the same laws would be very much alike every where. He had had some acquaintance with the operation of the attachment law of Connecticut. It often happened that the insolvent of the city of New York had debts due to him from residents in Connecticut. If he would transfer those debts to his favorite debtors, so as to put them out of reach of the attachment law, he must make an assignment of them, and give notice of it to the debtor previously to the service of an attachment. This had given rise to scenes not very creditable to the administration of justice. Expresses were employed to deliver notices of assignments, and the validity of a claim frequently depended on the fleetness of a horse. Mr. C. said,

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

he was convinced it would be found that the attachment laws were totally insufficient to supply the place of those uniform laws on the subject of bankruptcy, contemplated by the framers of the Constitution, the operation of which it must have been intended should be, to prevent insolvents from making fraudulent or partial dispositions of their property, and to put all their creditors on an equal footing.

But, Mr. C. said, he would not suffer the gentleman from Vermont to give his vote against extending to the honest unfortunate debtor the relief contemplated by the bill now under consideration, without directing his attention to scenes which are exhibited in all our great mercantile cities. Let me point out to the gentleman a man living in all the splendor and luxury of wealth; let him look on the human being passing this rich man's door with marks of poverty on his person, and wretchedness in his face; and permit me to give the history of these two men. The rich man is a money dealer; the poor man is a merchant, universally esteemed and respected; distinguished for his prudence as well as for his probity. He was engaged in commerce many years so prosperously that he thought himself independent; he had determined to withdraw a part of his fortune from his hazardous business and to invest it in real estate that might be some provision in the decline of his own life, and for a numerous family which he might leave. He purchased lands near the city of New York; paid one half the price out of the gains of his business, and borrowed the other half of the rich man, on bond and mortgage of the property: times changed—the year 1816 came—landed property fell so low that an acre, in some instances, could not be sold for what a lot would once have brought. The rich man foreclosed his mortgage and obtained but a part of his debt. The merchant was ruined. The interest of his bond is more than he can pay; and he walks the streets at the mercy of his creditor.

Let me also point out to the gentleman another, who lives in a palace, and is clothed in fine linen, and feeds sumptuously every day; and his neighbor who inhabits a tenement which shows that it is the abode of poverty. This rich man and poor man were once merchants of equal standing; they both made large importations and large profits at the close of the late war. Their success encouraged to similar adventures, and they each ordered large importations. The rich man's ship was lost; he received the value of his goods and the profits he had contemplated from his insurers, and now there is no bounds to his wealth. The poor man's vessel arrived and brought his merchandise to a market where they were then almost worthless. The consequence was his ruin; he is in poverty, with scarcely means to subsist himself and family, and even these means are yielded by the mercy of his creditors. Sir, these are not pictures of the imagination; they are scenes of real life. They are not singular, but are examples of thousands.

Let me, Mr. Chairman appeal to the justice and humanity of gentlemen, and ask, whether it be

right that society should guaranty to the rich man his wealth; to the successful merchant the enjoyment of his good fortune, and not interpose to protect the poor and unfortunate from oppression? Can we say to the creditor, you shall have laws to enforce your bonds and mortgages; we will give you executions by which you may strip your debtor to the very rags that are left to cover him—and yet, tell the honest and unfortunate debtor, morality forbids us to stay the hand of your oppressor? Society is not formed for the rich and prosperous alone. Poverty and misfortune have also their claims; and I do hope, Mr. Chairman, that, on this occasion, they will be heard.

We are told that, though other countries may want bankrupt laws, they are unnecessary for us, because we are not subject to the same vicissitudes that other nations experience; that we may calculate on the enjoyment of peace, while their laws must conform to prospects of war. Sir, is it possible that we can be so far misled by our vanity or folly as to legislate upon this principle? Can we suffer ourselves for a moment to believe that we are exempt from the evils of human nature? If we could isolate ourselves, and disclaim all connexion with the rest of mankind, even then such pretensions would render us ridiculous. But, we should remember that we have had, and must continue to have, intimate connexions with the rest of the world, and that it is changes in the relations of foreign nations, and the measures of their Governments, that most affect our merchants. Let us call to recollection the paper blockades, Orders in Council, Berlin and Milan Decrees of modern times, and how many millions of the property of merchants were sacrificed under these violent acts of the nations with which we traded.

If we look at home, we shall find that our own Government has been driven to measures not less destructive to commerce and ruinous to merchants. I refer to our restrictions, non-intercourse, and embargo laws. And, even as to war, I believe we have had a full ordinary share since the adoption of the Constitution. Within that time, besides one insurrection, we have had seven or eight wars—several of them Indian wars, it is true, which, I admit, could not much affect our merchants. But we have had, within the time I have mentioned, two wars, if no more, with the Barbary States; a war with France; and a war with England. All these were commercial wars; that is, wars which were induced by injuries done to our commerce.

The honorable member from Vermont has appealed to a petition on your table from certain citizens in Troy, in the State of New York, who are averse to the passage of the bill, to prove that the operation of the attachment laws of Vermont, are more beneficial for creditors than are what he calls the bankrupt laws of New York. These petitioners represent that they have lost more money by bad debts in the State of New York than they have in Vermont. I need not say, Mr. Chairman, how many circumstances must be taken into calculation, before we could come to any just conclusion from these premises; we must know the

FEBRUARY, 1822.

The Bankrupt Bill.

H. of R.

extent of the trade of the two places with Troy; we must know the nature of the trade, and how far the one more than the other was necessarily on credit. But the very foundation of this argument fails, because New York never had a bankrupt law. She never had a law which did not want the principal and essential feature of a bankrupt law—that is, a power to take the property of one who should give evidence of failing circumstances, and to distribute equally among his creditors. It is for the want of such a law that the Trojans have suffered so much by their dealings with the citizens of their own State—and their sufferings in New York cannot be received as evidence that the bill now before us would not have a wholesome operation.

I had intended, sir, to make some observations upon what has been said as to the bankrupt law of England; but on this part of the subject I have been anticipated by the honorable member who immediately preceded me. I shall, therefore, only remark that the testimony taken for the British Parliament affords not the least evidence that there was a man in the empire who thought that there should be no bankrupt law. I have attentively looked over the volumes that have been appealed to on this occasion, and venture to say nothing will be found but strong censures of the practices that prevailed under their existing laws. Several of the respectable witnesses examined by the committee have said these are disgraceful, and they further state why they are so. It is because there are such abuses as these: the appointment of incompetent and interested commissioners. Indeed, it is stated that, in one instance, all the partners of a firm were employed as officers or agents, under a commission against one of its own debtors. Enormous expenses and endless delays. Such irresponsibility and unaccountability in the assignees that the funds remained a trading capital in their hands. How could a law subject to such abuses be otherwise than disgraceful in its operation? But we must not condemn the system on this account, nor suppose that, because the English bankrupt laws admit such scandalous practices, that therefore, they will follow the enactment of the bill on your table, after it shall have undergone such modifications as may be approved by Congress.

The experience afforded in the short time that our own law of 1800 was in operation, has been very confidently appealed to, as affording the best, and most conclusive evidence of the little good, and positive evils attending the operation of a bankrupt law. Many reasons why this should not be considered as a fair or conclusive experiment have been already offered. I shall be careful on this, as I have been on every other point, not to repeat any thing that has been already said. But, in recalling to the minds of the Committee, for how short a time that law was unrepealed, I must ask them to reflect how many years, I might say ages, it has required to give the best laws the intended effect. Take, for example, the revenue laws. Though we have profited by the centuries of experience which England has had on this subject; how many revisions, and how many amend-

ments of our revenue system have we had, before we have been able to adapt it to the purposes for which it is intended? Again, look at the history of the statutes of frauds, and see how many thousand cases have been adjudged, how many volumes have been written, before the provisions of that statute have effected their design. Laws like these, and especially bankrupt laws, which are intended to meet and to check the craft and subtlety of the designing, cannot be made perfect in the first instance; and they can only be rendered so by the co-operation of courts and legislatures, in profiting by experience.

I must again remind the Committee, that the friends of the bill do not anticipate that it will suppress all frauds, or that it can be so framed as that it may not, in some instances, be perverted or evaded. They hope for nothing more than that it will remedy many of the evils of which, now, both debtors and creditors complain. If this be the true question, the inquiry which has produced the documents on your table, relative to the operation of the law of 1800, is a very insufficient and partial one. The gentlemen who instituted this inquiry, ought also to have asked information as to the operation of the State insolvent laws after the repeal of the bankrupt law. Sir, if they had done so, I am persuaded the evidence would not have induced us to prefer the former. It appears, that there were one hundred and sixty-six cases in the State of New York, in the three years of the law's existence. Sir, I will venture to say, without the least fear of being contradicted by the facts, although I speak only from conjecture, founded on general observation, that in three years since the repeal of the bankrupt law, there have not been less in the State of New York—remark, sir, I speak of the whole State, than one thousand discharges under the insolvent law, in each of the years. And I do verily believe that I am greatly within the numbers the facts would warrant. I must beg it to be observed, also, that I refer to a particular three years of the period that I have mentioned. If gentlemen say, under this bill frauds may be committed; what frauds have been, and may be committed under the insolvent and attachment laws of the States! What are the litigations and expenses under these laws! It is only by comparing these with what has or may take place under a bankrupt law that a just estimate of either can be made.

But, Mr. Chairman, if things could be left as they were before the decision of the Supreme Court, in the case of *Sturges against Crowninshield*, the insolvent laws of the States would be very inadequate for a mercantile nation. They all permit a failing debtor to transfer his property to a favorite creditor, or even to convert it into money, that may be put out of the reach of the law, down to the very moment of his making an application for a discharge. It is not uncommon to execute an assignment to favored creditors, and sign a petition for the benefit of an insolvent act, with the same pen full of ink. And to whom are these preferences given? To those, sir, who least of all are entitled to them. To the friends of the

H. of R.

The Bankrupt Bill.

FEBRUARY, 1822.

insolvent, who have given him a false credit, and have thereby enabled him to assume appearances which have deceived others. And when we consider the mode in which the affairs of insolvents have been managed, with reference to foreign creditors, we must feel that a regard for our national character requires some interposition in favor of those who trust their property to the protection of our institutions. Nor could the State insolvent laws ever satisfy the just claims of an honest insolvent debtor, because they could not give effect to his discharge beyond the jurisdiction of the State in which it was granted, as to debts not contracted within its limits. No one State, I presume, would consent that the laws of another should discharge its contracts. Such considerations, no doubt, were among those which induced the framers of the Constitution to provide that Congress should establish uniform laws on the subject of bankruptcy, throughout the United States.

I have said, sir, that the State laws would be totally inadequate, even if things remained as they were before the decision of the Supreme Court, which I have mentioned. But they cannot so remain; and if we do not adopt this law, or some similar law, we shall continue to be in a condition in which no other commercial people on earth now are. That is, without any law to guard against fraudulent failures, or to relieve honest but unfortunate traders.

Mr. Chairman, I have trespassed so long upon the time of the Committee, that I shall but very briefly notice some of the objections which have been made to particular provisions of the bill under consideration. Sir, I do not by any means intend to say that they are all unexceptionable. Some of them I should myself wish to see modified. As, for instance, the provision respecting the arrest of the bankrupt, I think, might be amended. It might be made necessary to apply to the magistrates of the State in which he might be found to sanction his arrest, or he might be demanded of the Executive as we now are obliged to demand fugitives from justice. But let us get rid of the motion now before the Committee, and try how far we can agree on alterations of such of the features of the bill as are objected to. It will always be time enough to reject it when it is found its provisions cannot be made agreeable to a majority.

Sir, it happens that the objections of some of the gentlemen are directly at variance with each other. One gentleman thought that a discharge would be obtained with too much facility. Another insisted that, to require three-fourths of the creditors to assent to a discharge, and always to subject the validity of the discharge to a question of fraud, to be decided by a jury, was so rigorous as would render the law entirely fallacious as respected the relief of insolvents. One gentleman objected to the law because it secured a priority to debts due to the United States. Another objected because such priority was not given. I do not say, sir, that, because the objections are contradictory, that therefore they must both be wrong. I know very well that in a

debate of this nature the advocates of either side will not agree with each other on all points. I regret to find that, in respect to the meaning and definition of the term bankrupt, I have found myself under the necessity of differing from a gentleman who has preceded me as an advocate of the bill. All that I insist upon is, that these contradictory objections cannot both be right; and therefore I hope the present motion may not prevail, but that we may pursue such a course as will enable us fully to discuss the merits of every objection.

The honorable member from Virginia, who spoke secondly in opposition to the bill, stated to us that its execution would require the appointment of 3,000 commissioners by the President. I do not know how he ascertains the number, but, if it be correct, I beg him to observe that they will only be brevet officers. For, until they receive another commission from the judge, they will neither have employment nor profit. Under the former law, the judge had the selection of the commissioners entirely. This gave some dissatisfaction, and, therefore, this bill provides that the judge shall make his selection of persons to execute each commission out of a number who are to be designated by the President. So that there never can be more persons employed than there is employment for. It is objected that the wife's debts are to pass by the assignment of the commissioners. So they would by the voluntary assignment of the husband, and it is only saying that the latter shall operate as the former. The idea that a husband shall be left in the full enjoyment of the fortune of his wife, however large that may be, and another idea that a part even of the husband's property should be left for the use of the wife, I fear are too gallant to be incorporated in a bankrupt law. But, if these ought to be features of the law, let us introduce them, and not reject the bill because the committee has not thought proper to adopt them.

I forbear, sir, to be more particular in my observations on the objections which have been made to the particular features of the bill, because one of the gentlemen from Virginia who has spoken against it, after enumerating all the objections which I have before noticed, and a great many others, has given us an opportunity of estimating the value of the whole. He finally informed us that he had one objection which was ten times as strong as all the others. Now, if we can duly estimate the power of this objection, it will afford us the means of determining, by an arithmetical process, the value of all the rest. I confess, sir, I listened with some anxiety and apprehension for the development of this potent attack, but, having witnessed the explosion, I am happy to find that the advocates of the bill may yet stand their ground, and the bill itself appears untouched.

The gentleman's last and greatest objection is, or rather his final objections, for he has mentioned two, are, that the law will create a corporation! and establish an aristocracy! He has said that, where a law applies only to a particular class of the community, that class becomes a corporation.

FEBRUARY, 1822.

Proceedings.

H. OF R.

But, sir, I think this won't do, for then the laws which apply only to importing merchants, or to auctioneers, or to distillers, &c., all constitute corporations. I had understood there could be no corporation where there was not an individuality given by law to a number of persons. But if this bill becomes a law, who are to be the corporations? Not creditors, because, as it respects creditors, it applies to every member of the community, and it is hardly possible to suppose that the gentleman contemplates a corporation of bankrupt debtors.

The same interrogatories will test the justness of the gentleman's fears that the law will create an aristocracy. Are we all to be aristocrats? Or will we have an aristocracy of broken merchants?

Mr. Chairman, I have detained the Committee so much longer than I had any expectation I should do, that I will not ask their further indulgence. Being in favor of the bill, that is, with such modifications as I think the House will agree to, I shall vote against the motion under consideration, because I cannot doubt the Constitutional power of Congress to pass a bankrupt law, by which the creditor may be entirely absolved—because I believe policy and expedience particularly demand it of us at this time. And, sir, I will not conceal that my feelings strongly concur with my judgment, when I say that this relief for honest and unfortunate debtors is required by justice and humanity.

When Mr. C. had concluded—

Mr. MITCHELL, of South Carolina, rose and intimated his intention to speak on the question, but the usual hour of adjournment having passed, the Committee rose, reported progress, and obtained leave to sit again; and then the House adjourned.

TUESDAY, February 12.

Mr. SERGEANT, from the Committee on the Judiciary, reported a bill supplementary to "An act for the better organization of the courts of the United States within the State of New York;" which was read twice, and ordered to lie on the table.

Mr. SERGEANT, from the same committee, also reported a bill for the relief of Edmund Kinsey and William Smiley; which was read twice, and committed to a Committee of the Whole.

Mr. SERGEANT, from the same committee, to which was referred the bill from the Senate entitled "An act supplementary to an act entitled 'An act to alter the terms of the district court in Alabama,'" reported the same without amendment, and it was ordered to lie on the table.

Mr. EUSTIS, from the Committee on Military Affairs, to whom was recommitted a bill to authorize the reconveyance of a certain tract of land to the city of New York, reported the bill with the following amendment:

"That the President of the United States be, and he is hereby authorized, whenever he shall have determined that the tract of land, on and near the west head of the Battery, (so called,) in the city of New York,

heretofore granted to the United States, by the Mayor and Corporation of said city, is no longer required as a military position for the defence of the harbor and city of New York, to cause the works erected thereon to be dismantled, and the materials thereof to be disposed of in such manner as in his judgment the public interests may require; and to reconvey to the said Mayor and Corporation the said tract of land, granted by them for the purposes aforesaid."

In this amendment the House concurred; and the bill was ordered to be engrossed for a third reading.

Mr. RICH, from the Committee of Claims, made a report on the petition of John Anderson, referred on the 20th of December last, accompanied by a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. McDUFFIE submitted the following resolution, viz:

Resolved, That the Secretary of the Treasury be directed to lay before this House a statement of the balances of money in the Treasury, and of the amounts of appropriations unexpended at the end of each year, from the commencement of this Government to the 31st of December last; also, a statement of the amounts of the public moneys which had been received by the collectors and receivers, and not paid into the Treasury, on the 30th of September, and on the 31st December last, respectively; also a statement of the amounts of revenue bonds outstanding on the 30th of September last, showing, separately, the amount of those that are considered solvent, and of those that are considered insolvent, and a statement of the debentures outstanding at the same period; also, a statement of the amounts of outstanding revenue bonds, due on the 80th of September, and the 31st of December last, respectively, at each period, the amount that was in suit, the amount upon which indulgence had been given, and the extent of that indulgence; and a statement of the sums due for public lands on the 30th of September, 1820, and on the 30th of September last, respectively, deducting from each of those sums the amounts from which the purchasers of public lands may have been released under the act of the last Congress passed for their relief; also, a statement of duties secured in each quarter of the past year.

The resolution was ordered to lie on the table one day.

Mr. FLOYD submitted the following resolution, viz:

Resolved, That the Secretary of the Department of War be required to lay before this House a statement of the goods and merchandise purchased for the different factories of the United States for supplying the Indian trade from the year 1811 until 1821, inclusive; designating the kind purchased each year, the amount, the place where procured, from whom, and by whom; also, a statement showing the amount of sales each year at each factory, distinguishing the sums received each year in cash, or in furs, peltries, or other articles, showing the exact amount of gain annually in the whole system.

The resolution was ordered to lie on the table one day.

The SPEAKER presented a communication from the War Department, transmitting a statement showing the appropriations for the year 1821; the amount unexpended for each specific object, and

the balance remaining unexpended on the 31st of December, 1821; which, on motion of Mr. SMITH, of Maryland, was referred to the Committee of Ways and Means, and ordered to be printed.

Theron Rudd.

On motion of Mr. STERLING, of New York,

Resolved, That the Committee on the Judiciary be instructed to inquire whether Theron Rudd, formerly a clerk of the district court of the southern district of New York, refused or neglected to pay over to his successor in office the amount of money deposited with him as clerk of said court, the same being the proceeds of sixty-eight head of cattle seized by Hart Massy, as collector of the district of Sackett's Harbor, and afterwards condemned under the law of the United States, passed the 4th day of February, 1815, prohibiting the transportation of provisions, cattle, &c. to the enemy during the late war between this country and Great Britain; and that they further inquire what means have been taken by the Treasury Department to collect the money from said Rudd, and to report to this House whether, if said money cannot be collected on account of the insolvency of said Rudd, the United States are not bound to pay to said collector his share of the forfeiture, as regulated by the act aforesaid; and, also, to indemnify said collector for his expenses in causing the seizure and condemnation of said cattle, and in defending himself against a prosecution in the State court on account of such seizure.

[On this resolution there took place some conversation between Messrs. WILLIAMS, of North Carolina, SERGEANT, MCCOY, STERLING, of New York, CAMBRELENG, and others, on the merits of the case somewhat, and more on the proper committee to give it in charge to. It was at length agreed, without objection, to refer it to the Judiciary Committee. It appeared, in the course of the debate, that the actual amount of defalcation of Mr. Clerk Rudd, which made so much noise a year or two ago, is about one hundred and thirty thousand dollars, part of which was money belonging to the United States, and part belonging to individuals.]

CASE OF CAPTAIN SHAIN.

Mr. RUSSELL, from the Committee on Foreign Affairs, to whom was referred the message from the President, transmitting a report from the Secretary of State in the case of Captain Shain, of the Ajax, made a report, detailing the circumstances of his suffering from personal violence, in the port of Havana, and concluding with the recommendation that Congress take no further order thereon; which report was agreed to. It is as follows:

The Committee on Foreign Affairs, to which was referred the Message of the President of the United States of the 30th ultimo, transmitting a report of the Secretary of State, of the same date, containing, in pursuance of a resolution of this House on the 16th ultimo, requesting information respecting any outrages and abuses committed upon the persons of the officers or crews of American vessels at the Havana, or other

Spanish ports in America, &c., a statement of Captain B. I. Shain, with accompanying documents, being, according to that report, all the information, to be found in the Department of State, embraced by that resolution; having duly considered the said statement and documents, report—

That, on the 25th of November, while the schooner Ajax was lying at a wharf in the port of Havana, and ready for sea, a lawless assemblage of Spaniards wantonly and violently entered on board of that vessel, and there assaulted Captain B. I. Shain, the master, and Mr. Joynes, his chief mate, who were armed and resisted, and who are stated to have severally discharged a pistol, and shot one Spanish soldier and killed another. The mob then prevailed, beating, cutting, and stabbing the Captain, his chief mate, the steward of the ship Lucius, of Charleston, and a man belonging to the brig Cyno, of Philadelphia, and mortally wounding, with the cook's axe, the second mate of the Ajax. The mob then proceeded to plunder the vessel of her running rigging—the beef and pork in the harness tubs, fowls, cabin stores and furniture, and the clothes of officers and seamen. The Captain was also robbed of his watch while he lay wounded and helpless on deck.

Don Francisco de Paula Hornillos, one of the consignees of the Ajax, who had been early sent for by Captain Shain, and who, alarmed by the threats of the mob to board the Ajax, had run to the Captain General and requested his interference to restore peace on the wharf, had scarcely time to state his request, when information was received that the mischief was already done. The Governor, then, at the request of Don Francisco, sent one of his adjutants to accompany him to the wharf for the purpose of there delivering to him the wounded person of Captain Shain. On their arrival at the wharf, the mob had dispersed, and only six or eight persons remained there, one of whom was Don Francisco Baro, Zelandar de Mar, (an officer of the marine,) who had before made great exertions towards keeping the peace, and had much endeavored to pacify the first man that had objected to the vessel's leaving the wharf, and who, having found there that man, did arrest him and send him to jail.

Captain Shain had already been carried, by Spanish authority, to the hospital, where Don Francisco de Paula Hornillos applied for him; but, as the surgeon was dressing his wounds, and it was considered dangerous then to move him, Don Francisco left him there that night. He took him out the next morning and sent him to a sick house, where Doctor Benjamin Huger, surgeon of the marine hospital in Charleston, was permitted to attend him.

In the mean time, Mr. Joynes, the first mate, Mr. Watson, the second mate, of the Ajax, and the man belonging to the brig Cyno, had been sent to prison, where Mr. Watson, having been attended also by Dr. Huger, died of his wounds on the following Friday; and whence the other two were discharged on the following Saturday, being the first of December last.

It also appears, by the documents submitted to your committee, that none of the officers or crew, who had belonged to the Ajax, previous to the outrage, were permitted to depart in her at that time. From this cause, it became necessary to ship others to navigate her home, and that Captain Shain and Mr. Joynes were forbidden, under a heavy penalty, to leave the place. In consequence of this prohibition, Captain Shain and Mr. Joynes believed themselves obliged to

FEBRUARY, 1822.

Reorganization of the Navy.

H. OF R.

leave the place clandestinely—Captain Shain first becoming responsible to his merchants for any penalty or charge which might be exacted of them, by the Spanish Court, in consequence of such departure.

Such is the summary of the facts submitted to your committee, and resting alone on the testimony of Captain Shain and one of his consignees. The testimony of Dr. Huger relates only to the nature of the wounds of Captain Shain. Mr. Warner, the agent of the United States at the Havana, appears to have taken no other part in the transaction than to authenticate the deposition of the consignee. Neither Mr. Joynes, the chief mate of the Ajax, and who was deeply concerned in the affair, nor any other American who was then at the Havana, excepting Captain Shain, has furnished any evidence on the subject.

From the facts thus known to your committee, it appears that the persons who boarded the Ajax and there committed the outrages above stated, had lawlessly and riotously assembled, and were, as Captain Shain has repeatedly denominated them, a mob—that their proceedings, whatever might originally have been the motive or the object, were not only unauthorized and unsanctioned by the constituted authorities of the place, but the officer, Don Francisco Baro, who happened to be present, made great exertions to keep the peace, and, as soon as he was able so to do, actually sent to prison one of the leading rioters; and that the Captain General, who only heard of the riot when it was too late to suppress it, despatched one of his adjutants to the wharf in order to deliver the wounded Captain Shain into the hands of a friend.

It is, in the opinion of your committee, a political as well as moral duty “to do as we would be done by,” and to treat the constituted authorities of other nations with the same confidence and deference which we are disposed to exact of others towards our own. A citizen of the United States, who suffers wrong or violence within the exclusive jurisdiction of a foreign sovereign, ever ought, in the first instance, to appeal to the competent tribunals of that sovereign for redress, and it is only in case of an extraordinary delay, or an unwarrantable denial of justice there, that he can be well qualified to resort to his own Government for its interposition in his behalf.

Captain Shain, so far from making such an appeal, has avowedly evaded the prohibition of a court to leave the scene of his alleged suffering, which was imposed with a view to judicial proceedings and to secure his presence thereat, in order either to answer the charges which might be preferred against him or to corroborate the charges which might be brought, in his behalf, against others.

Your committee are, therefore, of opinion that there has not been a case presented to them, in the statement and documents first mentioned, which requires the interference of this Government, and, therefore, respectfully submit the following resolution:

Resolved, That the committee be discharged from the further consideration of the subject.

REORGANIZATION OF THE NAVY.

Mr. COCKE rose to submit a resolution directing an inquiry into certain matters concerning the Naval Establishment. The resolution would point out the object which he had in view; but he thought it important that the House should be advised of the reason which induced him to offer the resolution for consideration. The act of Con-

gress, Mr. C. said, directed that the officers of the Navy should receive but half their monthly pay, when not under orders for actual service. By a regulation of the Secretary of the Navy, each officer attached to the Naval Establishment receives (notwithstanding the law) full pay, except when on furlough. He made this statement from an inspection of the order itself. He viewed it as a departure from the law—an evasion of the law more reprehensible than a direct violation of it—an attempt to get round the law, such as should never receive his sanction whilst he held a seat on this floor. There was another thing to which he was desirous specially to call the attention of the Committee on Naval Affairs, viz: the number of separate stations at which officers are placed, having the effect to increase their compensations, without any correspondent service being rendered. At Norfolk, for example, he understood there were two officers in independent commands, one at the Navy Yard, and one at the town. At Baltimore there was, he understood, another commander; and, from what information he had received, there was not a single armed vessel at that port—though there is a commander for the station, who receives three thousand dollars a year whilst living on his farm, and not attending to any duty at all. He wished also some information respecting the vessels on the Lakes. He understood that most of them were sunk, and none of them fit for service; notwithstanding which a number of men were kept in employ to take care of these sunken vessels; and, if he was not mistaken, the superior officer on that station was dubbed Commodore, as if he were commanding a squadron of armed ships cruising against an enemy, and received pay accordingly. This, Mr. C. said, could not have been the intention of the law. He wished also an inquiry to be made with regard to reorganizing the Naval Establishment, so as not to have a Secretary of the Navy and Commissioner of the Navy too. His friend from Kentucky had told the House, the other day, that millions had been saved to the Government by those Commissioners. Mr. COCKE said, he did not pretend to understand much about the subject; but he wished to explain what he did know. He knew that the annual expense of that Board and its clerks, &c., had been twenty odd thousand dollars per year since its establishment. If the Secretary of the Navy wanted counsellors, Mr. C. said he thought they might be obtained at a less expense than this to the Government, &c.

Mr. C. then submitted the following resolution:

Resolved, That the Committee on Naval Affairs be instructed to inquire, and report, how many naval stations are occupied by the United States; the number and grade of the officers at each; what each officer has received as pay and subsistence, and what for emoluments or extra compensation for supposed services; how many have received their full monthly pay who were not in actual service at the time, and by what authority they were so paid; and also that they inquire into the expediency of reorganizing the Naval Establishment of the United States.

Mr. McLANE, Chairman of the Committee on

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

Naval Affairs, said, he did not mean to make any objection to the scope of the present inquiry. But, he said that the mode which the gentleman had adopted was not the proper mode of obtaining the information he was in quest of. It did not fall within the sphere of the Committee on Naval Affairs to furnish such details as the resolution asked for. He would also suggest to the gentleman from Tennessee, although he was sure the gentleman's motives were of the purest kind, as a general remark, that there appeared to be a rather unfair, if not an ungenerous, proceeding creeping into the practice of this House; which is, that, when gentlemen want information from any Department of the Government, they should preface it with an argument, calculated to affect, and even to criminate public officers, founded on an assumption of facts proposed to be inquired into, and followed by consequences almost as serious in the public mind, as if the facts assumed were known to be true—when, it very often happened, that the facts, being obtained from the proper authority, were not as had been supposed. He did not say that the facts were not, in this case, such as they had been represented to be. But there was one fact with which he was acquainted, and would state; that, from the commencement of the Government, the construction of the law had been, that every officer of the Navy received pay until furloughed; because he is in actual service, liable every minute to be called to duty, until he is furloughed. This was the construction which the law had universally received, and he presumed it was the proper construction. On the other points, adverted to, he was not as fully informed, and had, in no view of the subject, any objection to the inquiry, but to the shape of it—because it devolved on the Committee on Naval Affairs a duty which did not belong to them, and because the resolution, in its present shape, evaded the rule of the House, which requires all calls for information to lie one day for consideration. Mr. McLANE, not intending to shrink from such part of the proposed inquiry as was within the proper duty of the Naval Committee, moved to amend the resolution, leaving part of it for a separate inquiry directed to the head of the Navy Department, so as to read as follows:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of reorganizing the Naval Establishment of the United States.

The amendment was opposed by Mr. COCKE, as proposing an unnecessary division of his motion into two distinct resolves, and supported by Mr. McLANE in reply—and was agreed to by the House.

Thus modified, the resolution was adopted, without opposition.

BANKRUPT BILL.

The House then resolved itself into a Committee of the Whole on the unfinished business of yesterday—the Bankrupt bill.

Mr. MITCHELL, of South Carolina, said, he hoped that the importance of the bill would justify him for trespassing on the patience of the

Committee for a short time. Wherever a question involved the Constitutional rights of the citizen, or a great and important change in our domestic policy, it must excite in every bosom the deepest interest. Nor could he remain satisfied, unless he explained the reasons which influenced his vote. He was the more induced to this, from having just read a memorial drawn up in favor of the bill by a portion of the people of Charleston. Although he had not the honor of immediately representing that respectable district of his native State, yet he was disposed, on all occasions, to sympathize with its wishes and promote its prosperity, and he was sincere in saying that he felt the deepest regret at being compelled, by the sacred trust reposed in him, to oppose a measure which had met with their expressed approval.

Mr. M. said, he could not pursue the course of argument adopted by the gentlemen from Virginia who had preceded him on the same side. They had denied the right of Congress, under the Constitution, to release the bankrupt from the legal obligation of inextinguished debts. He was of a different opinion. He believed that the powers of Congress, in this respect, were most ample; that they could introduce into an act of bankruptcy any provisions which they deemed salutary to the nation, and which were not inconsistent with the liberties of the citizen; and in this opinion he was confirmed by a solemn decision of the Supreme Court. His arguments would go to prove the adequacy of our present jurisprudence to effect the main objects of the bill; the complete failure of the bankrupt systems based on the same principles; and the unconstitutionality of many of the provisions of the bill tending not only to create an inequality in the condition of the people, but to violate some of their most sacred and cherished personal rights.

All the gentlemen who had spoken in the negative of the question had expatiated at large on the benefits of commerce. They had contended that, to protect and encourage this great pursuit, it was necessary to secure the rights of creditors and to establish private credit on the firmest and most solid basis; and that this could not be effected without the enactment of the bill on your table. The learned gentlemen from Pennsylvania, (Mr. SERGEANT,) who opened the debate, and who delivered on that occasion, as he does on all occasions, a most interesting speech, still further to prove and illustrate this conclusion, had presented the examples of England, France, Spain, and Holland—each of whom, he says, had found it necessary to introduce a system of the kind. But if the learned gentleman, instead of making researches into the policy of other nations, had simply contemplated the state of his own country, and had looked back upon her past history, his mind would have been led to a very different conclusion. From the moment that the first tree was felled by the little colony of Plymouth, down to the present day, our countrymen have been distinctively and emphatically a commercial people. They have engaged in this pursuit with an ardor the most inextinguishable, with a perseverance

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

the most indefatigable, with a success the most unexampled. As early as the year 1775, Mr. Burke, in a speech on American affairs, presented to the House of Commons, with exclamations of wonder, exhibits of the rapid increase of the commerce of the then colonies. He stated that, in the year 1772 our trade with England amounted, in round numbers, to £6,000,000; when, in 1704, only 68 years back, it had not exceeded £500,000; that, in the former period, our trade with the mother country was equal to what her trade had been, at the latter period, with all nations, although she was then decidedly the mistress of the ocean and at the head of the commerce of the world; and that this extensive commerce, trammelled as it was by the navigation act, had shot up to its then size from a seminal state, within the short period of one man's life. From this period until the year 1789, it may be said that all the pursuits of industry were in a state of pause and suspense. The Revolutionary War; the depreciation of paper; the distrust of foreign countries; the jealousy of the States; together with the feebleness of the old confederate Government, presented obstacles which not even the vigorous spirit of our countrymen could resist. But, from the following statement, it will appear that, as soon as our present Government extended its protection to the industry of the nation, commerce revived and increased with its wonted vigor. According to Pitkin, in 1791, our exports amounted to \$19,000,000; in 1801, to \$94,000,000; in 1811, to \$61,000,000, in round numbers. Supposing the last amount to be the gradual accumulating increase in the course of twenty years, where will you find its parallel in the history of nations? Now, sir, it must be recollected that during this time (except for two years and a half) no systems of bankruptcy prevailed in any part of our country. The common law and the law of merchants were the only securities to which the commercial man, at home and abroad, looked for the protection of his rights; and their operation guaranteed to him all the success which hope could reasonably anticipate—and here I do not mean to say that this rapid growth of commerce was owing entirely to the effects of our jurisprudence. No, sir, I attribute it to other and higher causes—to the good sense, the industry, the hardihood, the lofty and invincible spirit of our countrymen. It is to their moral energies that we must ascribe our pre-eminence in all the substantial arts of human life. But it is true, and can be proved that, without such an administration of justice, these effects, no matter what our national character might be, could never have resulted; and I defy gentlemen to point out a country, under the auspices of any bankrupt system whatever, where justice, punctuality, fair dealing between man and man, and all the results of wholesome laws, appear so conspicuously as in our own.

Let us compare, said Mr. M., our commercial advantages and success, with those of the nations held up to us as examples of the benefits of this system. France, sir, is as well situated for commerce as any nation in the world. She is the

intermediate link between the richest countries to the north and south of Europe. Her ports open on the British Channel, the Atlantic, and the Mediterranean. Her soil is of inexhaustible fertility; and her productions will command their full value when those of other countries fail. Spain has had in her possession for centuries the mines of America. She has the almost exclusive control of the bullion market of Europe. The mercantile capital of Holland is greater, in proportion to her extent and population, than that of any country in the world. And yet, sir, without the wines, the silks, and the oil of France; without the gold and silver of Spain; without the stock of Holland, we have attained a more extensive foreign commerce than any nation in the world, except England. In the name of Heaven what better evidence can you have of the efficiency of our commercial laws? Is there any thing mystic, any thing cabalistic, in the words bankrupt law? If the power which you apply to a machine produces a greater result than that which your neighbors apply, would it be wise to exchange?

Again, sir, the credit of our merchants abroad is another proof of the adequacy of our laws. Let the arrival of an American merchant be announced at Liverpool, or let him but appear on the Exchange in London, and he is immediately surrounded and beset by sellers. His difficulty is not how to purchase, but who to purchase from. He is distracted by the variety of applications, and I believe never fails to buy on credit. I may say with certainty, that from the proprietary government, down to the present day, the merchants of Charleston have been indebted to those of England. And would these credits be thus forced on our countrymen if the creditor did not feel the most reposing confidence in the securities afforded him by the law? Are they given from the affection which an Englishman entertains for the character of an American? No, sir. There is no friendship in trade. His object is gain; he credits for gain. But the one would not be attained, nor the other given, unless the law armed him with power to secure his rights.

Look now, sir, at the trade between the States. First, has not there been the utmost harmony among them in their commercial dealings? But if the citizens of one State had suffered from the inefficient, or unequal laws of another State, this would not have been the case. We should have heard of it; it is not the characteristic of our countrymen to suffer without complaining. Congress having the Constitutional power to make the system uniform, the suffering States would have resorted to it. In their sovereign capacities, they would have applied to this body to exercise its power, and remedy the evil. Have they done so? No, sir. Is it not usual for the Legislatures of the States to suggest measures to this body through their Representatives? The Journals of this session will tell you so. Are not the States sensitive to the rights of the people; jealous of each other's jurisdiction; and, above all, watchful and fastidious with regard to the measures of

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

this Government? Secondly, look at the increase of their domestic trade; and here again I must resort to numbers. Results—effects, are the objects of the politician; facts, are to be relied on by him, not theories. Our domestic trade has increased in comparison with our foreign trade, in the proportion of two to one. The enrolled tonnage employed in the coasting trade was, in 1793, 114,853; in 1803, 268,676; in 1813, 443,180 tons. In the course of twenty years it has quadrupled within a fraction. The growing wealth of a country, and its credit at home and abroad, are incontrovertible evidences of the strength and purity of its judicial administration. You may sooner doubt of the existence of a physical cause, with the effect staring you in the face—you may sooner doubt of the approach of the sun, when nature is blooming with beauty, and ripening into fruits, and you feel the invigorations of his heat, than question, for a moment, the unalienable association between wealth and security; between credit and public justice.

Let us now consider for a moment, the powers which the creditor has over the debtor by the laws of South Carolina. The moment a debt is due, (and no bankrupt process can issue before,) the creditor may arrest his body, or compel him to give bail. If the bail be not sufficiently ample, the sheriff and his securities are liable. From the institution of the suits, until the obtainment of judgment, his debt, no matter what its form, runs on interest. Then, sir, he may issue process against his person, or his property, or both simultaneously; and while he drags his victim to jail, may have his property knocked off under the hammer of the sheriff. Surely if the debtor evades him, it must be owing to his own want of vigilance. You cannot arm him with more power, unless you adopt the principle of the ten tables, and give him the life of the debtor; or unless, according to the imagination of Shakspeare, with Shylock spirit, you ordain that, for every pound of gold which the wretched man owes, a pound of his flesh must be forfeited.

Let us now, said Mr. M., consider the effect of the bankrupt law in England—that law which is the father and prototype, in constitution and feature, of the bill on your table. And here I shall not trouble you with extracts from the examinations of the late committee of the House of Commons on the subject. These have been abundantly quoted; but I shall simply submit the opinion of two persons who must be relied on. In 1818, Sir I. Newport, a lauded gentleman, a representative of the commercial city of Dublin, and a statesman of approved experience, in the debate on this subject, said, that “it was impossible that any system of commerce or fair credit could go on, or that fraud could be guarded against, under such a system as the bankrupt law in Ireland was at present.” And here it must be recollected, that the bankrupt law of Ireland was the same as that of England, and such was its effect there. Now, sir, for its operation in England. In proof, said Mr. M., I will give the testimony of Sir Samuel Romilly, who was the ornament of his age—a first

rate statesman—a lawyer in the highest practice—who devoted his life to the investigation and improvement of the penal code of his country. In the House of Commons, in 1817, he said, that “it was notorious that the grossest frauds were practised under the law; that fictitious debts very often superseded bona fide claims; that, indeed, many persons entirely subsisted by the fraudulent management of bankrupt concerns—by the superintendence of perjury and subornation of perjury.” If he had imagined the worst evils which could flow from any system, he would not have collected other facts; or expressed them in stronger terms. Instead of protecting the honest creditor, it is a shield to the fraudulent debtor; instead of dispensing justice, it encourages and disseminates the most flagitious of crimes. There is not in the vocabulary of human depravities one of deeper dye—one more demoralizing—one more destructive to the fastenings and ligaments of society—one more subversive of all peace, all virtue, all religion—of all that is dear to patriotism, or necessary to happiness, than perjury. Take the clasp of the oath from the mind of man, and what control have you over his passions? Can the majesty of the law inspire him with reverence; or can its terrors force him to obedience who boldly challenges eternal punishment from his God? And is there any gentleman on this floor prepared to adopt a system pregnant with such evil? Who would entail on his country an infamy—a disease, which would corrode its features, poison its blood and rot its bones? No, sir! Without commerce the State which I represent would become feeble and poor; but, if it cannot flourish without the adoption of such a system, I would willingly see a torch put to the navy, and our merchant ships the food of worms.

Mr. M. said he was furnished with other proofs on this subject. At the instance of one of his colleagues, (Mr. BLAIR,) information had been collected of the effects of our own bankrupt system, during its ephemeral existence, in the cities of Philadelphia and New York; and this was in full corroboration of what had been said of the bankrupt system in England. Indeed, it was enough to make the politician and the merchant shudder at its adoption. He would first examine that of Philadelphia. The law was passed on the 5th April, 1800, and repealed before its prescribed duration in 1803. It may be remarked that, during this period, the commerce of our country was in a state of unexampled prosperity. Europe was convulsed; nation was armed against nation; the arts of peace were abandoned for that of war; and we were the carriers and suppliers of that vast and populous continent. The depredations which France had committed on our commerce had just ceased, and those which England afterwards committed had not yet commenced. It was during this halcyon period, this day of bright and beaming sunshine, when the merchant was exposed to no political adversities; when the market was always open and on the rise; and when wealth poured into our country through every interstice, that this ill-fated system came into operation. And

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

what was its effect? In the city of Philadelphia, remarkable for the good faith, the frugality, and the caution, of its merchants, two hundred and eight bankrupts obtained final discharges, only ten of whom made any distribution among their creditors. The statement is incomplete; we are not told the expenses of the commissions, but it is sufficient to justify a belief of fraud. For how is it possible, that, in so short a time of such universal prosperity, when no other than sea-risks were run on the ocean, so many total failures could have taken place? You will find no such instance in the records of any insolvent laws whatever. The simple fact that one hundred and ninety-eight bankrupts out of two hundred and eight totally failed, so as not to pay a penny in the pound, would convince us of the extreme corruption of the system even in a period of uncommon disasters. So much for Philadelphia. In the city of New York, in the short space of seventeen months, there were one hundred and sixty-eight final discharges given under that number of commissions. Dividends were declared only in twenty-three of them. This, however, is not the only surprising fact. The costs in seventy-one cases (for these only are given) amounted to \$26,843 10; the highest amount of costs in one case, in which no dividend was declared, amounted to eight hundred and six dollars; and the costs in twenty-four of the seventy-one cases exceeded four hundred dollars each. From this it appears that it was certainly beneficial to two classes of persons—the commissioners and the bankrupt; but surely the honest creditor could anticipate nothing but loss from its operation. Yes, Mr. Chairman, if your object be to create offices, to feed a train of lazy dependants—to encourage the knavish trader in his acts of covered and circuitous villany—to injure the enterprising capitalists, whose industry and wealth add to the comfort and strength of the nation—to suppress all good faith between man and man—and to strike at the roots of private credit, without which commerce cannot exist—if this be your object, pass the bill! You will no doubt have your admirers, and it will, no doubt, afford relief to some: but remember, it is only an indemnity act, a protection to fraud or imprudence; that, where it relieves one victim of misfortune, it will create ten proficients in villany; and that you are now only acting the part of the empiric, whose nostrum produces in the patient temporary comfort, a sickly exhilaration, while it gives the disease a firm and fatal grasp on his vital powers.

Pathetic appeals, said Mr. M., have been made in favor of those unfortunate merchants, who have become so from the late crisis in the commercial affairs of the world. And is the merchant the only person affected by political changes? Ask the planter what was his situation during the embargo—during the war. Nay, still more lately, when the coercive but just policy of the National Bank caused failures in the purchasers of his produce, from Portland to Savannah? Did he suffer nothing? Such is the intimate union between commerce and agriculture in our country, that no event can affect the one which does not press

equally on the other. And what would be our task, if we undertook to accommodate our laws to the particular circumstances of every man, or to change them, whenever, from a change in public affairs, they may press on a particular class? The only question for us is, how has the present system operated? If in the general well, we must be satisfied. But are you sure that the passage of the bill would afford the country any sensible relief? Look at the state of England—the bankrupt law exists there. Is the condition of her merchants better than ours? Has the bankrupt law been pointed out by her politicians as an alleviation to the distress which is every where heard in the cries and seen in the rags of her half-famished laborers? In the parallels which have been frequently made in Parliament, between the embarrassments of that country and those of our own, have they held up this feature of their jurisprudence, as a circumstance which rendered their condition more tolerable than ours?—I believe not.

Having taken this general view of the subject, Mr. M. said he would now analyze some of the provisions of the bill, and prove that they were unconstitutional. First, its operation is confined to merchants and trading people, in exclusion of all other classes. He considered the bill not penal, but highly remedial. He, said Mr. M., who would go to the common prison and open those doors which had been closed for days or months or years upon an unfortunate captive, overwhelmed with debt, and with no other prospect than perpetual imprisonment; who would restore him to liberty, discharged of those debts; give him again to the competitions and hopes of active pursuits; enkindle anew in his heart the transporting affections of the father and the husband,—must be considered as the greatest of benefactors. Well, sir, this is the boon; this is the benefaction which the bill holds out to the trader. And is it not as much a privilege to him, that he alone shall be released from the obligation of inextinguished debts, as it is to the peer of England, that he shall be exempt from the operation of a *ca. sa.*, or an attachment against his person? The English say (and say perhaps correctly) that, according to the contrivance of their Government, it is necessary, in order to preserve in equilibrio the royal and popular power, that an intermediate class should be constituted; and to give this class due political importance, it must be distinguished by personal privileges. This may be all well there, but does it apply here? I am taught by that instrument, said Mr. M., which I consider the most sublime piece of eloquence ever penned by mortal man; which was the first act of our fathers, as a separate and distinct people; and which contains their political creed, as well as a history of their oppressions—I mean the Declaration of Independence—"that all men are by nature created equal." This principle of equality is the basis of our Constitution; it is interwoven with all its provisions; it characterizes all its institutions; it is the measure of all its privileges. Taxation, representation, the sovereignty of the States, eligibility to office, tenure of office, amenability for crime—all and

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

every thing—are distinguished by equality. No act of Government, no law of Congress, can be in unison with the Constitution, unless it have this feature; unless it operates equally on all men in the same circumstances. What a noble reflection, that, as much as we revere the respectable man at the head of the Government; as much as we honor the office which he holds; he does not as a citizen possess a single right or exercise a single immunity to which his shoeblack is not equally entitled. This, sir, is the spirit of our Constitution. It is this which gives us pre-eminence as a people; which extends its vivifying influence from this Hall, the first in the nation, to the humblest log hut; calling forth all the talent and all the virtue with which God has blessed us. Well, sir, is this principle observed in granting exclusive privileges to merchants?

An honest trader is unfortunate; he is overwhelmed by debts, which his means will not meet—debts incurred, not by fraud, not by folly, but by the hand of God on the ocean; he surrenders his effects, and is by the operation of the bill immediately discharged from his remaining creditors; he becomes a free man, in the full possession of his faculties, and with a right to all which those faculties can procure him. Not so his neighbor, the landholder. Equally honest in his views, equally unfortunate in his labors, he becomes enthralled beyond all hope of extrication by the hand of God on the land; he does all which the merchant has done; he surrenders his property to his creditors; where now is his home? The common prison. If liberated thence, where now is his hope? In the procurement of subsistence and comfort for himself and those dearer to him than self? Ah, no! The little mite, which his daily labor produces, is mortgaged; the hand of the law is ready to snatch from his grasp the morsel which he has earned; the cherub hope abandons him; and he looks to the grave, as his sanctuary against the persecutions of his creditors. Is the condition of these two men equal? Is not the one cherished and relieved by the law, while the other is abandoned to its severities, for no crime but that of having adopted the most noble and most virtuous of all pursuits, the cultivation of the earth? If a distinction is made, ought it not to be made in favor of the agricultural class? Who constitute the country? Who give to Government its strength and its fastenings? Who feed the public Treasury? Who fill and command our armies of defence; lend wings to our navy, and supply commerce with its aliments? The merchant. The merchant, a man of every country and of no country; who is perfectly indifferent whether the sun rises on him to the north or the south of the equator; whose attachments and hopes are regulated by the price currents which he daily receives, or who estimates the worth of every man, not by his virtue but by the balance in his ledger. I speak of them as a class. Are they the persons on whom we are to rely and whom we are to privilege? But no distinction ought to be made. If it be right that one class should be relieved, when under circumstances of inextricable embarrassments,

it is right that all classes should be relieved. You can advance no reason of morality or policy in favor of the merchants, which is not equally applicable to all classes. The elements are not more capricious to the ship on the ocean, than the crop on the land; political events affect the results of each equally; and it would be difficult for the advocates of the bill, who have spoken so much on mercantile risks, to prove that our merchants, in any given number of years that they please, have not increased in substantial wealth as fast as the planters. I cannot consent to vote for any law which is to proscribe a portion of my countrymen, and as all the provisions of the bill have been made applicable to the mercantile profession, and to that alone, I shall vote against them all.

2dly. Were it not, however, liable to this overwhelming objection, I should oppose it on other grounds. Who are to be your commissioners of bankruptcy, and what are to be their powers? The bill provides that the President shall appoint as many commissioners as he pleases, in each State; that the commission issued by the district judge shall not embrace more than three: that they shall appoint a clerk; and that the board thus constituted shall be limited to five dollars for each day's service, that is, one dollar and twenty-five cents a piece. Now who would undertake the duties of this office, perplexed, laborious, and odious as they would be, for this emolument? The liberal merchant? No, sir. The hazards of trade delight and engross his mind: he would not exchange them for a dry research into legal rights, the extent and modification of which none but a lawyer can accurately know. Besides, where is the respectable merchant, who cannot at his own desk in the same time make more money? Would the planter apply for it? Far from it. He is too much attached to his own liberties to accept an office which would constrain him to violate those of his neighbor, and exercise the severities of an English exciseman. Would the enlightened lawyer? His profession is too honorable and too lucrative for so odious and so meagre an incumbency. Whence then would their offices be filled? Why, from that class of men who are proverbially the disgrace of every country; the pettifogging attorney. As much as I honor the character of an enlightened lawyer, so much do I despise that of a pettifogger. The pursuit of the former is most noble; he explores the law to protect the weak, to vindicate the innocent, to punish the oppressor, and to enjoy that consideration which talents, usefully employed, will always confer; the other, the pander of the knave, triumphs in iniquity, and measures his merit by his success in the arts of deceit and evasion. Without feeling in his heart or principle in his head, he hesitates at no fraud or extortion, so as he can avoid his great landmarks the pillory and the whipping post. Of such men, sir, would the courts be composed; a court armed with more power over the person and the property of the citizen than the highest tribunal in the Union, or the highest in the State which I represent. And, first, as to their power over the person of the citizen: they are authorized on sus-

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

picion given on oath, to issue a warrant; not to the sheriff or marshal, trustworthy citizens commissioned by legal authority, under the sanction of an oath and with proper security for their good conduct; but to any person whom they please, to break open the door of the bankrupt for his apprehension, or that of any other person whom they suspect of concealing him. Hitherto, sir, every man's house has been his sanctuary, which the power of the highest tribunal could not invade for the enforcement of civil process. Nothing but the commission of crime justified the lifting a latch or breaking down a door. Were the debts of an individual of incalculable amount; were they ascertained by process before the highest tribunal, and a legal officer authorized by execution to arrest the debtor; his house would be his castle, the inviolability of which he might defend even to the life of the officer. But by this bill not only may the debtor's house be violated, but that of any other citizen, who may be suspected of concealing him. In Carolina, at a very early period, our provincial legislature adopted the common law of England, which has since been made of force by our State constitution. All the personal rights which it extends to the people we have received as an inheritance from our fathers. Among them none is more sacred than this right of habitation.

I will here quote one or two passages from Blackstone, to show the light in which it is viewed:

"An arrest must be by corporal seizing or touching the defendant's body, upon which bailiff may justify breaking open the house in which he is to take him, otherwise he has no such power, but must watch his opportunity to arrest him. For every man's house is looked upon, by the law, to be his castle of defence and asylum, wherein he shall suffer no violence, which principle is carried so far in the civil law, that not so much as a summons or citation, much less an arrest, can be executed upon him within his own walls. Again, burglary is a heinous offence, not only because of the abundant terror that it naturally carries with it, but also as it is a forcible invasion and disturbance of that right of habitation which every individual might acquire even in a state of nature; an invasion which, in such a state, would be sure to be punished with death."

And the law of England has so partial and tender regard to the immunity of a man's house, "that it styles it his castle, and will never suffer it to be violated with impunity—agreeing herein with the sentiment of ancient Rome, as expressed in the words of Tully, *'quid enim sanctius, quid omni religione munitius quam domus uniuscujusque civium?'* For this reason no doors can be broken open to execute any civil process." The author goes on to state that a person may lawfully assemble people to defend his house, which he can do in no other case. Now, sir, when three nations—the Romans, the English, and the Americans, so different in character, in government, and in habits, each distinguished for wisdom, view a particular right with the same scrupulous reverence—declare that it shall not be violated to enforce the

payment of money; that so long as a free man shall be unpolluted with crime, his hearth, his fire-side, shall be sacred to peace; that the sovereign authority, in all its majesty and power, cannot invade it—what are we to conclude, but that it is one of those absolute and inalienable rights which we receive from the hand of God, and which we cannot be forced to surrender but by the commission of crime?

The gentleman from Kentucky (Mr. MONTGOMERY) tells you that he cares not for its violation, so justice be done to the creditor. But does he not, as a free man, feel that his rights are of different grades, of different value—that his personal rights are more to be appreciated, more to be secured by the law than the right of property—and that, where one of two rights is to be violated, the greatest injustice must consist in violating the most important? I cannot account for his feelings, nor do I know how this provision would affect the people of Kentucky, but I can say what its fate would be in Carolina. It could never be enforced there; not from any disloyalty in the people—their history proves them always ready to make sacrifices for the general good—but from their high sense of the dignity of the free man—from their devoted attachment to liberty, and all those rights which immediately affect their personal security. This right of habitation our people enjoyed when subject to England; for it they fought and bled during the Revolution—they possessed it anterior to the Constitution; and we, their descendants, yet hold it unimpaired. Should the door of a citizen (under the authority of this warrant) be burst open, when seated at his fire-side, surrounded by his family, depend upon it that that officer would never execute another process. You might compel the debtor to go through the parade of an arraignment at the bar, but, like every other parade, it would end in nothing. You might pack your jury, sift the people of the State from one corner to the other, and you could not collect twelve men, so dead to public sentiment, so regardless to the rights of the free man, as to condemn him. The most illiterate tenant of the humblest log hut, through which the elements of nature pour their fury, feels this right in all its pride—it is engraven on his heart—it circulates in his blood—he breathes it in his breath. And would you attempt to legislate against the sentiments, the fixed principles, the ruling passions of people? You might as well pass an act to stop the down-flowings of the Potomac.

Again, by section 21, the commissioners are authorized to issue a warrant to any person, or to break open the house, door, chambers, trunks, &c., of the bankrupt, in search of his goods. I consider this a direct violation of the fourth amendment of the Constitution. The words are, "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches, shall not be violated," &c. The words "unreasonable searches" must mean illegal searches, as contradistinguished from those justified by the then existing law. If you attach to the word "unreasonable" its conversational meaning; the

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

article would be nugatory; for Congress could authorize no search for which a reason might not be given; the most trivial trespass might be a reason for a search; and the power of Congress would be, as it was before the amendment, limited only by its discretion. But the object of the amendment evidently was to divest from Congress its unlimited discretion in this respect. Every instrument should be construed so as to give it effect, and accord with the intention of the framer. What was a reasonable search at the time the amendment was made? Surely that, and that alone, which was a legal search; but no search was legal under the common law, except for goods feloniously concealed. The article intends that the right of the citizen, with regard to the inviolability of his house, should remain as it then was. The Constitution was not made to abridge our personal rights, but to secure or enlarge them; not to make us less free, but more free. The only idea of limiting or restraining supposes a defined boundary; and if you do not consider the right as it then stood the boundary, the discretion of Congress is unlimited, and the article means nothing. There are other powers granted to the commissioners liable to similar exceptions. But what are their powers over the property of the debtor? By section 6th, after declaring him bankrupt, they are authorized to take into their possession all his estate, real and personal—his books, papers, moneys, &c., and keep possession of them until they shall see fit to have assignees appointed by the creditors. No security is required of them, either that the property shall be forthcoming or properly managed. If they make way with the whole, and are worth nothing, both of which are most likely to be the case, where are the parties interested, the creditors and debtor, to look for remedy? There is no officer, who has control over the funds of another, who is not obliged to give security, except these. If the property consisted in money, bonds, notes, or valuable moveables, (the usual estate of a merchant,) how easy to withhold the whole or a part; for who is to know what the debtor had when they have his books and papers in possession?

Lastly, the bill is a *felo de se*. The gentleman from Pennsylvania (Mr. SERGEANT) said that the peculiar benefit of the bankrupt bill was to take the goods out of the hands of the debtor, to prevent him from wasting or appropriating them, or preferring his endorers to other creditors. Now, sir, will the bill effect these objects with its present machinery? By section 4, as soon as the commission is issued, due notice is given of it to the debtor; if he appears, he has a right to require a jury to examine into the charges, and then, on a certificate in writing to that effect, the district judge empanels a jury, and summons witnesses, and finally decides whether he be bankrupt or not. His goods cannot be seized until this process is gone through. Now has he not, under this provision, due notice and time to waste his goods, alien them, or appropriate them to the exclusive security of his endorers? Under the English system the whole process is *ex parte*, and the first

intimation, which the debtor has of a step being taken against him, is the warrant to seize and divest him of his goods. Surely this is preferable as a bankrupt law. If you pass a bankrupt law at all, pass it in such a shape as that its objects will be effected. Do not employ the very means most calculated to counteract your wishes. These, sir, are some of the reasons which influence me to oppose the bill.

When Mr. M. had concluded—

Mr. PHILLIPS, of Pennsylvania, addressed the House as follows:

Mr. Chairman, after listening to the observations of the honorable member who has just taken his seat, I do not rise with an expectation of throwing much additional light on the subject now before the House. I am not able, Mr. Chairman, to enter into a discussion of the merits or defects of the different systems of bankruptcy, which have been adopted by foreign nations; nor do I consider it necessary. My objections to this bill are founded on the principles of injustice which it contains, and on the obvious effects which it will have on our own citizens. I shall not dispute with the honorable member from New York, (Mr. GOLDEN,) concerning the etymology of the word bankrupt;—because I believe the framers of our Constitution did not consult their dictionaries, in order to determine whether that was the precise word which ought to be used in the clause of the Constitution to which he alluded or not. I believe all that they intended to do was, to invest Congress with a power to establish a uniform rule, for determining in what manner the person or property of a debtor are to be disposed of, who becomes unable to pay the demands of his creditors. We are told, sir, that your table is loaded with petitions from a respectable class of the community, requesting that Congress will now exercise this power. I admit Mr. Chairman, it is due to the petitioners that we should legislate on the subject, and put an end to their suspense; and I am willing that a bill for their relief should pass, provided this can be effected without involving the interests of other classes of the community, or violating justice; though I am not apprehensive of any danger from that violence, which is to break open the doors of an insolvent debtor, or turn into confusion the apartment of an "affectionate daughter," who may purloin a few trinkets from her father's shop: for I think with the honorable member from Kentucky, (Mr. MONTGOMERY,) that justice ought at all times to be enforced as far as possible. I conceive, however, that that gentleman, though he at first seemed willing to pursue an insolvent debtor, through all his turnings and windings, in order to enforce justice, stopped, nevertheless, in the middle of his course; for that justice which would force the door of a lady's chamber, that would pry into the contents of her bureau and bandbox, and strip her of her leghorn bonnet, her merino shawls, and morocco slippers, for the purpose of discharging her father's debt, that same justice was put to sleep, when another bankrupt, too crafty to intrust any thing to his daughter's care, (after having passed through all the forms prescribed by law,) might be

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

drawn in his coach by the doors of his needy creditors, who might say, this grandeur was purchased at our expense, but the law has put it out of our power to obtain redress. In recurring to the petitions and memorials which have been presented to this House, in favor of a bankrupt law, it will appear that nearly all of these have emanated from these merchants and traders of commercial cities and towns. Now, sir, if the operations of the bill were confined to those places from whence the memorials proceed, I, for one, would be disposed to give the petitioners the experiment of a system, which seems to be wished for by both debtors and creditors. But the provisions of this act will extend to all parts of the United States, and, in its operations, it will involve the rights and interests of many citizens, who can in no case obtain the benefits which a certain description of persons are to receive under this law. In commercial cities the relation of debtor and creditor generally exists between men of the same class; merchants are indebted to merchants, who have an opportunity of reciprocally giving and receiving the advantages held out by this law to insolvent debtors. But the circumstances of country merchants are entirely different; a large proportion of their debts is owing to farmers, mechanics, &c., from whom they have obtained loans of money. If one of those merchants elect to turn bankrupt, those creditors are compelled, not only to lose a great portion of the debts due to them, but likewise to see a part of the money which they had earned by the sweat of the brow, given to the delinquent for the renewing of his trade; and though he should afterwards acquire ever so great wealth, they can never compel him to pay his just and legal debts.

Such a system will be deprecated by every industrious class of our citizens throughout the country, even were its benefits extended to all. But, when one class of men are privileged to pay only half the amount of their debts, and deprive their creditors of a legal right ever to demand the residue; while those creditors under similar circumstances might be deprived of all their property, and still continue liable for every deficiency, the injustice is aggravated. In many parts of the country, at least in that State which I have the honor, in part, to represent, there are men who are at the same time merchants and farmers. If a man possess a landed estate, and have a trifling store, not worth perhaps a thousand dollars, he is entitled to the benefit of this act, he may thereby be released from all his debts, and have something to recommence business with. His neighbor, (a farmer,) who has perhaps been involved in difficulties through his failure, must submit to have his property swept away by the sheriff without the reservation of a single cent; and if he attempt to commence his usual occupations again, the very implements of husbandry are liable to be taken in execution for the discharge of former debts. This, sir, appears to me to be placing different classes of men, who have an equal right to all the benefits of law, and protection of their property, on very unequal footing. One man has, in the eye of the law, paid his debts, and has a

fresh opportunity of acquiring wealth; another, although he may have equally complied with all the demands of justice, remains a debtor, and every acquisition of property thereafter is at the mercy of his creditors. This bill, therefore, in my opinion, will establish a partial instead of a uniform system of bankruptcy; not merely because its benefits are extended to a part only of the community, but because its provisions are calculated to favor one class of our citizens at the expense of the rest. It is true, the condition of those unfortunate men for whose benefit this law is intended, is such as to excite our sympathy; many of them have, no doubt, been reduced by misfortunes which human wisdom could not foresee, nor prudence avert; many of them, I believe, also, are sufficiently honest to desire an opportunity of becoming able to pay their debts. Those who are not, deserve no relief. The advocates of the bill say it is to give insolvents that opportunity. This scheme for obtaining the payment of debts is very plausible in theory, but the practice under it, I fear, will be widely different from what is anticipated. A bankrupt who is released from the burden of his debts, and sets about acquiring a new stock of wealth, even with an honest intention of paying his debts, will consider it reasonable that he should first provide well for the comforts of his own family; next, that, before he shall commence the payment of old debts, his circumstances may be such that no embarrassment will be felt in the further prosecution of his business—and, as he is to be his own judge in these matters, I believe very few will ever find it convenient to spare any thing to old creditors. Admit, however, that this is no valid objection; admit that the humanity of allowing an insolvent debtor an opportunity of providing comfortably for his family, is of itself a consideration which ought to have great weight in inducing us to pass the bill; still, there are other evils which I apprehend as likely to grow into practice under this law, that will prevent me from voting in its favor.

It will open a door for the practice of fraud in a more successful manner than can be effected under existing laws. If, under our State laws, a man finds himself in embarrassed circumstances, although he may deceive his creditors by concealing a part of his estate, yet he knows that, whenever he is discovered to be the owner of any property, it is at all times liable to be taken for former debts. It will therefore be his interest to use every exertion to avoid failure, and if he must become insolvent, to make all he can out of his property, in order to satisfy his creditors as far as possible. But, if this bill pass, we make it the interest of every merchant, who is under any difficulties, to take advantage of its provisions, that he may free himself from embarrassments, and take a fresh start in the world. And I believe the consequence will be, that many who are somewhat involved, and who, nevertheless, might retrieve their affairs by economy and prudent management, will take the mode here provided for them, as the easier way of getting rid of their

H. OF R.

Proceedings.

FEBRUARY, 1822.

debts. If they honestly surrender their property, and suffer it to be sold, they pay their debts and have something to begin on anew. If they choose to act a dishonest part, and enlarge their future capital by secreting a sum of money, I see nothing here to prevent them, except the solemnity of an oath, which I am sorry to say appears, in too many instances, to be disregarded. It is true, there are clauses in this bill which provide for the punishment of dishonest bankrupts. But, sir, you may enact laws for the punishment of dishonesty, yet we cannot compel men to be honest, neither will the punishment follow unless the crime be proven; and if a person, disposed to become bankrupt, should conceal a considerable sum of money, (which he may do without any person being privy to the fact,) until he has gone through all the forms of law necessary to procure his release; if he afterwards brings this money into active employ, no proof can be given of his villany, and he not only goes unpunished, but is protected by law from the just demands of his creditors; and the temptation to act such a part is much greater in this case than where there is no opportunity of using the secreted property to advantage.

Thus, sir, said Mr. P., for the sake of assisting one class of men, (that is, those whom we suppose to be honest insolvents,) we throw a temptation in the way of others to take advantage of our humanity, and, if a person choose to withhold the payment of his debts, we deprive his creditors of the power to enforce it. This part of the bill I conceive to be unjust in principle. It goes to impair contracts in favor of one class of men at the expense of others. If the law were prospective it would not be so objectionable, because those interested might guard against its effects; I do not say that it is an *ex post facto* law, but it is, at any rate, retrospective; involves the interests and impairs the rights of many citizens who can receive no advantage from its provisions; and as I believe the first section of the bill contains principles of injustice, I shall vote for striking it out. I have objections also to other sections of the bill, but as the honorable member who has just taken his seat has anticipated many of the remarks I was about to make, and presented to the House a much more comprehensive view of the details of this bill than I would be able to do, I shall not tire the patience of the Committee by repeating ideas which have been already advanced. I will only add that I shall vote in favor of striking out the first section of the bill; and if no other be substituted, more compatible with justice and the equal rights of the community, I will vote against the bill in all its parts.

When Mr. P. had concluded—

Mr. ARCHER, of Virginia, rose and remarked, that he wished to submit a few observations on the motion; but perceiving that the usual hour of adjournment had passed, he moved that the Committee rise and report, which was agreed to; and, after the Committee had obtained leave to sit again, the House then, on motion, adjourned until to-morrow.

WEDNESDAY, February 13.

Mr. NEWTON, from the Committee on Commerce, reported a bill to continue in force "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," which was read twice, and committed to the Committee of the whole House to which is committed the bill restoring to the ship *Diana* the privileges of a sea-letter vessel.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to which was referred the bill from the Senate entitled "An act for the relief of Josiah Hook, jr.," made a report thereon, recommending that the said bill be postponed indefinitely. Laid on the table.

Mr. WILLIAMS, from the same committee, made a report on the petition of General John Thomas, accompanied by a bill for his relief; which bill was read, and committed to a Committee of the Whole.

• The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a statement exhibiting the sums appropriated for the Naval Establishment for the year 1821; the expenditures out of the same; the balances of appropriations for the year 1820; the several sums refunded to the Treasury to the credit of the Navy; the amount of transfers on the settlement of accounts to the debit and credit of the appropriations, and the unexpended balance of each appropriation on the first of February, 1822; which letter and statement were referred to the Committee of Ways and Means.

The House proceeded to consider the resolution submitted on yesterday by Mr. McDUFFIE, and the same being read, it was, on motion of Mr. PLUMER, of New Hampshire, amended, by adding thereto the following, viz: "Also, the amount of receipts into the Treasury in the last quarter of the past year;" and, on motion of Mr. BALDWIN, it was further amended by adding thereto the following, viz: "And also a statement of the amount standing to the credit of the Treasurer of the United States and other public officers on the books of the Bank of the United States, and the branches, on the 1st of February instant, specifying the banks."

The question was then taken to agree to the resolution as thus amended, and passed in the affirmative.

The House proceeded to consider the resolution submitted yesterday by Mr. FLOYD, and the same being again read, was agreed to.

Mr. COCKE submitted the following resolution, viz:

Resolved, That the President of the United States be requested to cause to be communicated to this House the number and location of the naval stations now occupied by the United States; the number and grade of the officers at each, and how employed; what each receives per month, as pay and subsistence, and what for emoluments, or extra compensation; whether any have received their full monthly pay who were not in actual service during the period for which they were paid; how many are on furlough; whether any naval officer is employed in the merchant service; if

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

so, whether he receives any pay from the Government.

The resolution was ordered to lie on the table one day.

An engrossed bill, entitled "An act to authorize the reconveyance of a tract of land to the city of New York," was read the third time, and passed.

The SPEAKER laid before the House a letter from the Postmaster General, transmitting a statement of the contracts made at his department during the past year, and of some in 1820, which were not completed when the statement for that year was rendered to the House; which letter and statement were referred to the Committee on the Post Office and Post Roads.

THE BANKRUPT BILL.

The House then resolved itself into a Committee of the Whole on the unfinished business of yesterday—the Bankrupt bill.

Mr. ARCHER, of Virginia, took the floor in favor of the motion to strike out the first section of the bill, and continued his remarks until the usual hour of adjournment, when, Mr. A. not having concluded, the Committee rose, reported progress, and obtained leave to sit again.

THURSDAY, February 14.

Mr. MATTOCKS presented a memorial of the Vermont Colonization Society, auxiliary to the American Colonization Society, praying that additional and more effectual measures may be adopted for the entire suppression of the African slave trade; which memorial was referred to the Committee on so much of the President's Message as relates to the suppression of that trade.

Mr. McNEILL presented a memorial of sundry citizens of Fayetteville, in the State of North Carolina, praying that so much of the acts, passed April 18, 1818, and May 15, 1820, concerning navigation, as prohibits British vessels entering the ports of the United States with cargoes of the produce of the British West India islands, and other American colonies, may be repealed; which memorial was referred to the Committee on Commerce.

Mr. MOORE, of Alabama, presented a petition of William Patterson, of that State, stating that he has, at great labor and expense, opened a road direct from the town of Blakeley to Pensacola, in West Florida, and established a ferry over the river Perdido, at a place where the same may be crossed at all times, which road is of great public benefit and importance, and shortens the distance more than fifteen miles, and upon which the public mails are transported; in consequence of which he prays that a quarter section of land may be granted to him, one half to be located on each side of the river, so as to include his ferry; which petition was referred to the Committee on the Public Lands.

Mr. FLOYD remarked that in consequence of unofficial reports of the promulgation of an imperial ukase of the Autocrat of all the Russias, in relation to the western limits of the United States,

he begged leave to lay on the table the following resolution:

Resolved, That the President of the United States be requested to communicate to this House whether any foreign Government has made claim to any part of the territory of the United States upon the coast of the Pacific Ocean, north of the 42° of latitude, and to what extent; whether any regulations have been made by foreign Powers affecting the trade on that coast; and how far it affects the interests of this Republic; and whether any communications have been made to this Government, by foreign Powers, touching the contemplated occupation of the Columbia river.

On motion of Mr. McLANE, the Committee on Naval Affairs were instructed to inquire into the expediency of providing measures to prevent the destruction of the timber of the United States in Florida.

On motion of Mr. SANDERS, a committee was appointed for the purpose of investigating the affairs of the Post Office Department, with power to send for persons and papers.—Messrs. SANDERS, ARCHER, RUSS, MALLARY, BUTLER, BUCHANAN, and NEALE, were appointed the said committee.

On motion of Mr. TUCKER, of South Carolina, the Committee on the Judiciary were instructed to inquire into the expediency of permitting aliens, who resided within the limits and jurisdiction of the United States one year immediately preceding the declaration of the late war between the United States and Great Britain, and who have continued to reside within the same, to become citizens of the United States without a compliance with the first condition specified in the first section of the act, entitled "An act to establish an uniform rule of naturalization," approved April 14, 1802.

The House proceeded to consider the resolution submitted yesterday by Mr. COCKE, and the same being again read, was agreed to.

BANKRUPT BILL.

The House then resolved itself into a Committee of the Whole on the unfinished business of yesterday—the Bankrupt bill.

Mr. ARCHER began by remarking, that his observations would be directed exclusively to the principle of the bill, admitting, as he did, the correctness of the objection to a different course of discussion, on the motion to strike out the first section which was now under consideration.

Mr. A. proceeded to allude to the unpleasant conflict of sentiment, produced in the minds of the adversaries of the bill, by the interfering influence of sympathy with opinion. He invited the attention of its friends, at the same time, to the probable influence of the same feeling in giving complexion to their opinions. In its design there could be no doubt that the measure was an act of relief to particular distress, *and grace*, and not of prospective legislation. Other recommendations were indeed assigned, but Mr. A. said he hoped it would be regarded as no evidence of disrespect, to consider these in the mere character of relief to the picture, the colors of which would, without this relief, be

too violent to be borne. The heavy account of objection to the principle of a bankrupt system, required, indeed, the offset of the appearance of collateral advantages. Mr. A. was authorized to regard the subject in this view, from the character of the representations employed, both without and within the House, in support of the measure, and from the clause of limitation of its operation to three years. A corroboration of the same view was furnished in the importunity with which the adoption was demanded. Acts of mere public advantage were never required with this degree of earnestness. When demand was made for measures invading the spontaneous distribution of property or industry, or asserting in their principal that despotic control of legislative power over contract, the indications of which, of late, had filled the hearts of thinking men with reprobation, and the spirits even of firm men with fear; whether these measures were bank bills, or tariff bills, or bankrupt bills, the demand had but one source, the influence of some private interest or distress. Public good was an inactive lethargic principle, whose still small voice was never heard in clamor, and retiring mien was never seen in importunity. Mr. A. relied upon this view, in the impression that gentlemen who could be brought to consider the bill as presenting a mere question of the extension of relief to a particular distress, could have no difficulty in its rejection. He had no intention to deny the reality or extent of the distress. Highly wrought, as the picture of this distress was, he did not pretend that it was overcharged—neither did he affect to exclude entirely the relief of distress as a ground of legislation. He knew that this consideration must sometimes combine in that complex mass which made up the mixed and varied composition of public policy. What he contended for was, that the present was no proper mode of the interposition of this relief. The bill was not a measure of retrospection. If it were, it stood condemned by the Constitution under which we exercised legislation, and the higher and more authoritative constitutions of justice. The measure purported generally an operation on persons engaged in trade. But, were the distressed classes, whose relief constituted the real object of the bill, composed of persons engaged, or who had the means of becoming, or would actually become engaged in trade, unless it was by a fraudulent proceeding, and for the mere purpose of bringing themselves within the operation of the bill? Could then the bill attain the purpose, independently of whose attainment its friends were indifferent to its destiny, without a mode of operation which it was impossible to vindicate? In a fair operation it was incompetent to its essential purpose. In any other it stood without susceptibility of defence.

Mr. A. went on to consider the bill in the light of a provision for prospective commercial distress, in which view he maintained it to be altogether unrequired. The probability of future, he said, was to be judged of by the causes of subsisting distress; an unparalleled commercial excitement, which had now disappeared, had been the source. The swell and outflow of the waters had subsided,

and the wrecks of commercial prosperity they had left behind them formed a safeguard against the renewal of that overaction and temerity which had led to this condition of disaster. As the bill had been shown then to be incompetent to any purpose of present relief, by a fair operation, so it did not appear to be demanded by any essential policy of provision for the future.

Mr. A. adverted next to the supposed express power in the Constitution to pass the bill, and to the inference which had been founded on it, of a qualified obligation to exercise the power. To such an inference, Mr. A. objected, as confounding the distinct, though related considerations, which determined the propriety of the grant and of the exercise of power. Such a principle of inference, he said, would not only give to power the character of nuisance, but conclude against the propriety of any grant of it which was permanent. If this inference were in any case sustainable, still it could have no application, in construction, arising on the Constitution of the United States. Mr. A. proceeded to assign the reasons of this inapplicability. The Constitution, he said, was a work of compromise. It might, therefore, reasonably be supposed to have admitted the incorporation of powers, of which the character might have been considered questionable. The Constitution, too, was a grant of only specific powers, under which there was to be no exercise of substantive power not expressed. It might, therefore, be well supposed to admit the insertion of powers of uncertain character, as a provision against contingency. The inference then, which had been suggested, could never have taken place under this Constitution, and the exercise of power in question, supposing the power expressly given, remained therefore liable to all objection which could be urged against it. The objection, Mr. A. thought, would be found to be insuperable.

Before proceeding to the examination of the Constitutional question, Mr. A. discussed the moral competency of a power of dissolution of the obligation of contracts. He denied, on various grounds, this power to be the incident of political authority. The scope of this authority, he said, was not unlimited independently of positive restriction. If it were so, the immortal renown of Locke had been acquired in defending, and that of Sydney in perishing for error. The inherent limitations on political authority, were not, it is true, easy to be assigned. One principle, however, was plain—its powers, being derived from the occasions and ends of civil association, could not transcend, and still less be such as to defeat these occasions and ends, where they were of essential character. But the enforcement of contract, founded in valid consideration, was one of the essential occasions and ends of civil association. There could be no power, therefore, to defeat contract of this character, but it was an obvious obligation on the part of political authority to maintain and give effect to it. This doctrine involved no denial of the discretion which, unquestionably, belonged to public authority to determine, amid the varieties of contract, the species which had a claim to aid for en-

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

forcement. All that was contended for was, that the discretion must be a sound one, although subject to no positive, assignable limit. The question, in cases of this sort, never related to the existence, but the abuse of a discretion, which was all that was meant by a defect of moral power. But the further proposition was maintained, that, where a particular species of contract had been recognised by law, and a pledge given of a remedy for its enforcement, that this pledge could not be vacated, any more than the contract could be annulled, without a breach of moral competency and public faith. The authority of the State contracted with the creditor in this case, a distinct, particular engagement, collateral to the principal obligation, of a character, if possible, more inviolable, inasmuch as the ground of observance was more explicit, and the mode of incurment more incontestable and direct. A contrary doctrine led to the subversion of all political morality. The distinction attempted between the control over contract and that over remedy was illusory altogether, and, if traced to its consequences, and tested by the principle which these consequences would fix upon it, was a subject for unqualified reprobation. Public authority had, indeed, the same right of prospective regulation over the remedy to contract, that it had, as respected its original recognition and adoption, as the subject of remedy. But in neither case, whether of adoption or remedy, was its guaranty, rendered in the authentic form of law, liable to infringement, unless in cases of application of the overruling principle of public preservation. If this were not unimpeachable doctrine, there was nothing intelligent in contract, and nothing binding in faith. But neither were the subjects of this distinction which made so much noise, and led to so much abuse and mischief in the world, distinguishable except in name. What was the inviolability of contract, separate from the inviolability of remedy, in a civil and legal point of view? No person could deny that a power of unlimited posterior control over the remedy was tantamount to a power of defeasance. Nor could it be said there existed, in this case, the same limit of moral discretion, which had been stated, in relation to the adoption of contract, as the subject of remedy. The discretion in the case of the adoption of contract, as the subject of remedy, was prospective entirely. It involved no power of defeasance of contract which had been previously recognised as valid. It operated no effect of the vacation of pledges and faith. But the discretion which was asserted over the remedy of contract, did not involve this power of defeasance, and did operate this effect of the vacation of pledges. It involved, too, the inconsistent pretension of a power to frustrate, by indirection, the benefit of a contract, which it disclaimed the power directly to invade, as if a difference (not a distinction) could be assigned between the power to annul the obligation, and a power to annul the availability of contract; between a divestiture of its existence, or of its efficacy; between an arbitrary control over its substance, and a power of annihilation of its fruits and advantage. To the distinction which

affirmed a real difference between these things, no sophistry could lend a color.

But admitting, Mr. A. said, a power of dissolution of contract, to appertain to political authority, did the case of insolvency or bankruptcy present a proper occasion for its exercise? The occasion claiming the exercise of such a power, was constituted by the occurrence of some delinquency or failure of consideration, on the side of one party, and the exercise was justified for the protection of the other party. But what was the operation of a bankrupt system? For the delinquency of one party, it discharged the rights of the other party, and, at the same time, an expressed legal obligation of good faith.

The cases of the uncontested powers to pass acts of limitation, and for the discharge of the person of the debtor from imprisonment, referred to by a gentleman from Pennsylvania (Mr. HEMPHILL) formed no exceptions to the doctrine which had been stated, of the exemption of contract from the control of public authority. Acts of limitation, so far from implying any power of cancellation of contract, implied the recognition of its validity, against which they permitted a presumption of discharge to be set up, derived from lapse of time. The office exercised by the law, was not the discharge of the contracts submitted to its operation, but only the allowance of an inference of pre-existent discharge of the party, as a presumption of evidence, arising on the circumstances of the contract. This presumption of evidence was consistent both with general usage and reason, and the power exerted was a power of regulation, not of contract, but of evidence. Of a power of this kind, no one would be found to contest the regularity. It was not the character of this power, like that of the discharge under a bankrupt system, to transfer the consequences of the misfortune, or delinquency, of one party, to the punishment of the other, not participating in that delinquency. The creditor suffering under an act of limitation, could have no right to arraign its operation of either injustice or hardship, inasmuch as the operation could only be incurred by his own neglect, and inasmuch too as it could be avoided, even after it had been incurred, by showing that its reason, as a principle of evidence, had no application to the circumstances of his case.

The consistency of acts discharging the person of the insolvent debtor from imprisonment, by a retrospective operation, with the principle of the inviolability of contract, was equally apparent as that of acts of limitation. The power of coercion of the person in the enforcement of the contract of debt, was only given as a collateral security to the real object, which was the coercion of the full and absolute surrender of the effects of the debtor, in satisfaction of his engagements. There could be no breach of justice therefore, in the release of this security, but would be a manifest breach, as well of reason as humanity, in retaining it, in circumstances where the evidence could be rendered complete of its object having been otherwise accomplished. The operation of all rules and systems was liable to cessation with the attainment

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

of their objects, and the cessation of the reasons of their adoption.

It was in the competency of Congress, then, to adopt insolvent laws, that is to say, laws discharging, retrospectively, the person of the insolvent debtor from imprisonment, on the surrender of his effects.

But it had appeared to be beyond the competency of any political authority, to adopt what had been called bankrupt laws in the discussion, that is to say, laws discharging the debtor from the obligation of his engagement.

The assertion that the Constitution made an express grant of the power, would, if it were well founded, be of no force, and the reason was, that both the grant and exercise of such a power, stood inhibited by an authority which was paramount to the Constitution, in conflict with which, the Constitution stood, to the extent of the collision, superseded and annulled.

But was this assertion to be considered as well founded? Had the Constitution made a grant of the power, upon a fair construction of its import? This important question, Mr. A. now proceeded to discuss. The Constitution, he said, had prohibited to the States a power to impair the obligation of contracts. As no considerations could be conceived, occasional merely in their character, and peculiar to any form or function of government, for an inhibition of this kind, the grounds of it must be presumed to have been general, having application to every form and function of government, and founded in principles of moral incapacity of the exercise of such a power, of the nature of those which had been insisted on. If this view were correct, the recognition in the Constitution of the power to pass a law of the character of that now proposed, was a libel on the venerated framers of this instrument, distinguished alike by their political morality and wisdom. The ground on which this power was inferred to belong to the federal authority, was the idea of the coextension of this authority with what would have been, or was, the authority of the States, independently of the restriction which had been adverted to. The doctrine involved by this idea of the necessity of express prohibition to the denial of a power to this Government, was of a character too large and momentous, Mr. A. said, for examination in a mode of incidental discussion. It lay at the root of discussions of far greater dignity and extent than the present, considerable as this was in importance and extent. On the decision which the public should eventually render with respect to this point, Mr. A. verily believed that the future correspondence of the administration of this Government with its true principles, and the destiny of the Union in a federative, as distinguished from a consolidated capacity, would depend. The doctrine was not now required to be discussed, however, in relation to the present controversy, inasmuch as a fair construction of the clause of prohibition in the Constitution, which had been referred to, showed the sense of its enlightened authors, that the legitimate authority of the States, from the analogy of which the power in contest was

derived, had never extended to the comprehension of such a power. The prohibition of this power to the States by the Constitution, was to be regarded as a *declaratory*, and not as an *initiative* prohibition, inseparably attached, and inherent as this prohibition was, to the character of all political authority.

But, if the fair construction of this clause of prohibition on the States to exercise the power of impairing the obligation of contracts was such as had now been supposed, then, Mr. A. said, that such an interpretation must be given to the clause, in relation to the passage of laws on the subject of bankruptcy, as would make it consistent with this construction. That was to say, such an interpretation must be given to "laws on the subject of bankruptcy," as would intend them to import something short of the discharge of the obligation of contract, if such an interpretation could be found. It comported with all received rules of construction, to adopt that mode of it which was necessary to the preservation of the several clauses of the same instrument, in consistency with each other, and with the recognised principles of reason and justice, to which all construction must submit. A competency was even recognised to impose restraint on the obvious import of expression, in subservience to these purposes. The argument which, from the power to pass "laws on the subject of bankruptcy," inferred that these laws might have the character of a discharge of the debt, was founded explicitly by a gentleman from Pennsylvania, (Mr. HEMPHILL,) on the generality of the expression. But every person knew that generality of expression might and ought to be restrained, where the restraint was required by such considerations as had been stated. Supposing, then, that the obvious import of the clause in discussion was to give a power to pass laws discharging the obligation of contract; still, Mr. A. said, that he should not feel he was taking too bold a ground, in contending for a restriction on that import.

But was this the fair import of the clause? Would no other construction satisfy its intention? Mr. A. contended that there was a more obvious construction by which this object would be estimated. He had no design of engaging in the present inquiry, of the propriety of the application of a technical construction to the language of the Constitution. Neither would he found, he said, any unqualified reliance on the historical fact which had been stated by his colleague, (Mr. STEVENSON,) that this feature of discharge, formed no part of the bankrupt system of England, from which the language of the Constitution had been borrowed, for a period of more than a century and a half, posterior to the adoption of the system in that country. He admitted that the import of the expression, at the time of its adoption into the Constitution, and not its import at the moment of the adoption of this feature into the system in England, or at any subsequent period, ought to give the rule for its construction. What was the just exposition upon this subject, resulting from the structure of the clause in which this phrase,

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

"bankrupt," was employed? This language was not to pass or establish uniform bankrupt laws, but "uniform laws on the subject of bankruptcy." It was not too minute an observation to say, that the reference of this language was to a peculiar condition of circumstances, and not a peculiar modification, or form of legal enactment. The import was to convey a power to adopt competent and proper laws, having application to the subject of mercantile failure, and not to indicate a particular character of law having application to this subject, as distinguished from any other; that is to say, a law discharging the debt of the failing party, as distinguished from one which should be confined to the discharge of his person from imprisonment. It could not be said that, if this had been the intention, the language employed would have worn a character more general, and had reference to the condition, or subject of insolvency, instead of that of bankruptcy. The object which the Constitution had in view, was the creation of a power applicable, not to the condition of insolvency generally, nor even to the insolvency of merchants in particular, but to a condition still more peculiar, that of the failure of merchants to pay, whether proceeding from insolvency or disinclination. This was the meaning of bankruptcy, as discriminated from insolvency, which imported exclusively a disability of payment. This distinction, contemplated by the Constitution, was founded, as was the case with all its provisions, in adequate reason. The laws which should relate to insolvency generally, falling properly under the municipal local jurisdictions of the States, might be left with these jurisdictions. Provision for mercantile insolvency merely, though coming properly under federal cognizance, would fall short of the fulfilment of all objects of commercial interest connected with this subject. Farther provision was required, therefore, applicable to the condition of *mercantile failure*, as distinct from insolvency, which it might or might not comprehend. It was for this peculiar and discriminated condition, that the Constitution had it in contemplation to provide. Short of this extent, the objects of its provisions would fail of being completely attained. What are these objects, and what the character of the regulations they required? Had they any essential relation to the relief of the failing debtor, by the discharge of his obligation, on the surrender of his effects? They had not. The providential arrest of his extravagance, and fraud, and the proportionate distribution of his effects among his creditors, the coercion of justice from him, and its due distribution to the claimants upon him for it—these were the objects which the interests of commerce, as connected with the condition of failing persons, required to be consulted, and the attainment of which, formed the proper scope and character of a bankrupt law. The attainability of those objects was entirely independent of the unrelated and ulterior object of the relief of the debtor by the discharge of his engagements. His interests afforded matter of distinct, however it might be just or important, consideration. Provision for these interests might

either be combined with that demanded for the proper objects of a bankrupt system, or this provision might be omitted, accordingly as these several and not essentially connected interests might be found susceptible of combination and coalescence. This intrinsic independence of the proper character of a bankrupt system, of any object of discharge to the debtor, was attested equally by its history and its reason. What was the history? For more than a century and a half after the adoption of the system in England, this principle of the extension of discharge to the debtor, was not comprehended as a part of it. What was the reason? This was to be tested by the source and operation of the proceedings under the system. The system must be presumed to be designed for objects connected with the advantage of the party, from whose instance the proceedings took their birth, and not for objects connected with the party on whose interests these proceedings expended the whole harshness of their operation. But the creditors were the parties whose instance gave birth to the proceedings, and the debtor was the party on whose interest was expended the whole harshness of their operation. The relief of the debtor could have, therefore, no inherent essential relation, with the intrinsic constitution of a bankrupt system. This object was *adscititious* to the proper objects and operation of the system, not essential to its efficacy any more than it was coeval with the period of its introduction.

The Constitution of the United States, then, Mr. ARCHER proceeded to say, in the adoption of the bankrupt system, must be considered as having adopted it in its proper character, and not accompanied by any unavoidable adjunct of objects or conditions, which formed no indispensable part of its composition, nor had any essential relation to its efficacy.

But the conclusion which had been stated did not convey the full force of the provisions, on this subject, of the just import of the clause of the Constitution under discussion. After the probable purport of language, the source of construction next in authority was furnished by the circumstances under which the language was employed, which might be supposed to suggest the reasons of its employment. There were two meanings imputed to this controverted clause of the Constitution. The one which supposed it to indicate a particular form and character of law, power to pass which was to be given. The other which supposed it to indicate a particular condition of circumstances, to which any competent and proper laws might be applied. Which of these was the just exposition by the test of the circumstances inducing the adoption of the clause of the Constitution? The construction of a remedial provision was required to be such as would conform its import and operation to the character and extent of the mischief it was proposed to remedy. What was the mischief it was proposed to remedy, or the occasion which was to be subserved, by the adoption of a power to pass bankrupt laws into the Constitution? Was there any existing defect, under the operation of the State authorities,

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

of the peculiar kind of laws, the power to pass which was supposed to be particularly intended by the Constitution, as distinguished from a different kind of laws? No! The gentleman from Pennsylvania, who opened the debate, (Mr. SERGEANT,) on the results of whose research every reliance was to be placed, had told us that laws of both kinds were in force under the operation of the State authorities, at the time of the adoption of the Constitution. There was no peculiar occasion, then, for a provision, designed in a peculiar manner, to supply a defect of the former of these classes of enactment. There was no occasion, consequently, or propriety, for imputing this peculiar design to the adoption of the clause of the Constitution which had reference to this subject. But did the same remark apply to the other of the two intentions which it was said had been attributed to this clause of the Constitution, namely, the intention of supplying a power, applicable to a particular condition of circumstances requiring regulation, to be exercised under the restraints imposed by the operation of general principles, and the more particular limitation imposed by a regard to the preservation of consistency in the different parts of the Constitution? So far from want of reason for the imputation of this last supposed intention, as was the case of that which had been considered, the reason was irresistible in favor of the imputation. A very sensible defect was experienced, not of what in the debate have been called bankrupt in contradistinction to insolvent laws, both of which existed in sufficient numbers, but of a peculiar quality of uniformity, in the character of equality, in the operation of these laws, whether of the one kind or the other, so far as they affected the relations of intercourse of the States, that is to say, so far as they affected the interests of commerce and merchants, whose relations to these laws comprehended the whole scope of public interest in this respect. The office of supplying provision for this defect, relative to a general interest, could only be properly referrible to the Federal authority, invested with the superintendence of general interests. To this authority, therefore, the function was committed, and the function so confident, was not a jurisdiction to establish laws of a peculiar form or mode of operation, and still less of a character excluded by the limit of political and moral competence, but laws of any form or mode of operation applicable to their proper subject, and confined within these limits, which should exhibit the essential character of uniformity. That laws discharging the faith of engagements were not comprehended within the limits of political and moral competence, was a proposition which it had been already attempted to establish.

Upon a review, then, of this branch of the subject, the reasoning, Mr. ARCHER said, was this—a construction was to be adopted of the powers of the Constitution, which would preserve them in consistency with the rules of moral competence, and the instrument in consistency with itself. In a sound estimate of the extent of political authority, a power of dissolution of fair and bona fide

engagements did not appear to be comprehended within its scope. In the prohibition to the States of the exercise of such a power, this principle appeared to be recognised by the Constitution of the United States itself. What inference, then, remained? That such an interpretation was required to be given to the power to establish laws on the subject of bankruptcy, as would preserve it in consistency with this inviolable principle, announced from this authoritative source. But a construction not forbidden by the language, and directly sustained by the probable intention of the adoption of the clause which gave the power in the Constitution, led to this result. Ought, then, any hesitation to prevail in the adoption of a construction which stood recommended by such imposing considerations?

Mr. ARCHER went on to remark, that an opinion had been intimated by the Supreme Court, in the exposition of this part of the Constitution, that the discharge of the debt formed no essential part of the composition of a bankrupt system. There was an observation, too, in relation to this technical construction attempted to be put on the word bankrupt in the Constitution, which was conclusive, if not of the merits of the general controversy, yet against the supporters of the present bill. There was no doubt that the signification, if taken technically, imported an exclusive reference to a mercantile class. The power of extension, however, of the operation of the system, beyond this class, was admitted by his present friends. With what propriety, then, could they contend for a technical import of the expression?

The general proposition which had been maintained was, that Congress, though invested with no competency to establish what in this debate had been exclusively called a bankrupt system, was invested with undoubted authority for the establishment of a uniform system of insolvency. The further proposition was now advanced of the adequacy of a well-digested insolvent system, to the attainment of every legitimate object of what was called a bankrupt system; a phrase of which Mr. A. would avail himself in the progress of the debate, for the advantage of brevity, and not as admitting its correctness. Supposing this last proposition to be erroneous, however, the argument in favor of a bankrupt system would derive no aid, inasmuch as the system would still remain liable to the objections resulting from the indefensible character of the power of which it involved the exercise, and the odious nature of the distinction which it had an inevitable operation to establish between the mercantile and other classes of the community.

Mr. A. proceeded to review the objects of a bankrupt system, in reference as well to their proper character as their probable attainability by the operation of an insolvent system. He premised a remark on the panegyric exhibition of the importance of commerce, (the essential relation to which of a bankrupt system was uniformly affirmed,) with which the recommendation of this system was perpetually ushered in. To the inferences derived from this source there was a reply

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

of general application, furnished by the known character of all the more essential branches of social interest, of independence of other than merely protective regulations for their prosperity. There had prevailed, it was true, for a considerable period, among the European nations, a policy of artificial incitement to the interests of commerce, at the expense of co-ordinate social interests and justice. Of this policy a bankrupt system formed a part. The principles of this policy, however, in proportion as they had been subjected to enlightened examination, had been, with few exceptions, discarded; and Mr. A. saw no reason for the exemption of this part of the system from the merited and common destiny.

Reverting to the objects of the bankrupt system, Mr. A. referred to the extravagance of its pretensions—proposing not only the advantage of the public and the debtor, but, what seemed scarcely reconcileable with the benefit to the latter of the discharge of his obligations, the advantage also of the creditor. This inconsistency was in consonance, however, with the inconsistency between the primitive and present character of the system. In its inception it had been a form of criminal proceeding against the bankrupt; in the form now proposed, it would be a system of bounty, not merely on insolvency, but fraud. The want of a discrimination against fraudulent bankruptcies had been objected to the present bill. A reference to the first section would show that the true character of the objection was very different, no persons being comprehended in the operation of the bill other than those who, with “intent to delay or defraud” their creditors, committed the acts which were contemplated as constituting bankruptcy.

The advantage designed to the debtor was the discharge of his engagements. The grounds of the alleged propriety of this proceeding were various—the peculiar risk to which the mercantile class was exposed demanding this form of indemnity; the futility of retaining the lien of debt in a condition of insolvency; the prejudice to the family of the bankrupt and the public; and, finally, the vindictive purposes to which this retention was liable to be abused. Mr. A. reviewed these several considerations. As related to the allegation of indemnity for risk, there was a general answer, derived from the inevitable compensation of this, like every other peculiar disadvantage incident to social pursuits, by proportionate augmentation of profit. If the operation of this principle of compensation were not infallible, the just level which prevailed throughout the range of employment would fail of preservation. No branch of employment afforded juster illustration of this principle than the mercantile, in which the rate of general profit was so disproportionately high as not only to lead, more frequently than happened in any other pursuit, to uncommon success, but to afford a regular fund for the payment of insurance. Mr. A. went on to advert to the superiority of the indemnity against risk which was provided by this operation of insurance, to that which resulted from the operation of a system of bankruptcy.

Whilst this latter incited to the indulgence of temerity, the former supplied a principle of repression of this temerity, which was proportioned exactly to the degree of it. Under the operation, too, of this indemnity of insurance, the responsibility for risk was placed, as justice required should be done, on the party who was compensated by the premium for it. Under the operation of a bankrupt system the real responsibility for temerity rested with the last parties who ought to be exposed to it—the creditors, who could in no event receive any part of the compensation with which it might be rewarded in the occurrence of success. Mr. A. observed, also, on the unusual proneness to the indulgence of temerity, which was admitted to distinguish the commercial character of our country—and asked, what were the consequences to be expected from the removal of all curb upon it by the adoption of a bankrupt law?

He adverted to the further consideration alleged as justifying the discharge of the bankrupt by the law—the futility of retaining the lien upon him. The retention was not so entirely futile as it was represented; the industry of the debtor constituting a source of reliance for the discharge of his engagements, no less than his existing possessions. This argument operated, too, both ways. If the retention of the lien could be of no value to the creditor, neither could its release be of value to the debtor farther than related to the support of his family, to which extent provision could be made for it, without an absolute discharge of the obligation. The true objection, however, to the discharge of the lien was founded, not on its value, but on the inlet to intolerable frauds which would be inevitably opened by this discharge.

The recommendations of the system, founded on the importance of the release of the bankrupt's exertions to his family and the community, were open to an obvious reply. The provision, as far as it was required for the first of these objects, was liable to no objection; and, as related to the second, the facility of the bankrupt setting up again in business, this indicated one of the strongest objections to the system, instead of forming one of the recommendations of it.

As related to the liability to abuse for vindictive purposes, which was made an objection to the retention of the lien on the bankrupt, such an abuse was very easy to be obviated by proper regulations, short of discharge. Though this were not the fact, the question remained, how far an obligation ought to be allowed to be counterbalanced by a mere consideration of humanity? The gentleman from Pennsylvania (Mr. SERGEANT) had insisted much on this consideration of humanity, and on the peculiar force of the obligation involved by the free character of our Government, to accord to all classes of citizens exemption from useless and cruel restraint. But the paramount obligation of all Governments, and more especially of a free one, was the assurance of justice to its citizens. In this interest of the faithful, and even rigorous, dispensation of justice, every other social interest was involved as an element. The invasion of this predominant interest for the attain-

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

ment of any object whatever, was a policy, Mr. A. said, like that of the savages, (the most ignorant and wretched that we read of,) whose habit it was to cut down the tree which bore the fruit that sustained them, as the mode of getting at their food.

But there existed no adequate ground for the anticipation of any general indulgence of vindictive propensities, on the part of the creditor class, towards debtors in a condition of insolvency. There was no propensity, of the character supposed, of general prevalence; nor any consideration of interest prompting to conduct of this kind. The notorious facility which insolvents found in the composition of their debts was evidence of the fact. Indeed, the subjects of civil society acted under a degree of restraint from the influence of opinion, which made the indulgence of the vindictive feelings supposed a matter of almost moral impossibility. Of all descriptions of influence to which the course of human action was exposed, this, of general opinion, was that which men were found the least able to resist. It extended where no other influence could reach, and exerted irresistible force where none other had authority. Supposing, then, any large description of men endowed with vindictive propensities, they stood under the control of a moral bridle, which no hardness could break or avoid. They dared not, if they felt disposed, and if opportunity was presented to them, trample on the necks of the fallen, or glut their appetites for vengeance with the tears of the afflicted.

Man was greatly misrepresented, however, by this description of him, as an instrument resounding only to harshness, from whose strings no voice of kindness or humanity would speak. He was an instrument of an exactly contrary character, prone to relaxation under the influence both of sympathy and obsequiousness. His promptitude was to crouch beneath the rod rather than to wield it over others. The denial of this bankrupt relief had been called by one gentleman (Mr. MONTGOMERY) a Shylock system of legislation. Mr. A. said, that he desired no better illustration of the correctness of his views upon this subject than could be derived from this allusion of the gentleman from Kentucky. Was Shylock denied his bond? Was he allowed to be forced, even by the highest authority in the State, into the receipt of a commutation (six-fold) for his debt? Not at all. The debt which the "law gave" the "judge awarded." What the bond did not stipulate, nor the debt comprehend, blood, and infliction of misery, was denied. So, too, in the case of the present argument, a power to prohibit vindictive indulgence was admitted; but, as respected the faith of the contract, it was denied that there belonged to "the State" any power of cancellation.

The considerations, then, assigned in justification of the advantage of discharge to the debtor, did not appear to be well founded. The objects of advantage proposed in relation to the creditor, would be found to be equally facious. These objects were, the early arrest of the extravagance and frauds of the debtor, and the proportionate dis-

tribution of his effects among the claimants on him. The modes by which these objects were proposed to be attained were, 1st. The powers created by the bill; 2d. The inducement to fair conduct on the part of the debtor, involved in the right of denial of his certificate of discharge; 3d. The punishment denounced against him for fraudulent proceeding. As related to the first of these objects, the arrest of the extravagance and frauds of the debtor, it would readily be perceived that the inducements to dishonest practice in these respects were greatly enhanced by a bankrupt system, provided there was a probability of the resort to it proving successful. In the supposition of such a probability, these inducements became irresistible, and when the almost indefinite facilities of fraud co-operating with the delusive influence of hope, inducing the resort to them, were taken into consideration, what was the inference? That the increase of the resort to fraud would prove excessive. The facilities to the practice of fraud, it was to be remarked, were not diminished in effect by the operation of a bankrupt system. Validity could not be denied to alienations of the effects of the bankrupt antecedent to the commission of the act of bankruptcy, nor to alienations intervening between the act and the inception of the proceedings. Here, then, was a precise indication of the modes by which the operation of the system in restraint of fraud was open to defeat. The inducements to fraud were augmented by the effect of the system; the facilities were left the same, with the difference of a precise indication of the time and manner in which resort might be had to them with success. The voyage of fraud was shoally and perilous, but here was a chart furnished, by which it was rendered safe. A stronger objection was, that the law became itself convertible into an instrument highly operative of fraud.

Mr. ARCHER gave an account of the several methods by which this effect was produced—concerted bankruptcies, the proof of fictitious debts, collusion with assignees. He referred to the evidence taken before the Committee of the British House of Commons, in proof of this instrumentality of the bankrupt law in that country to these various modes of fraud. A majority of the cases there were said to be cases of concerted bankruptcy. The proof of fictitious debts was said to have become a distinct and profitable profession. The law was described as a mere engine of benefit to its administrators. These modes of fraud were all of them placed beyond the reach of prevention, from the common interest of the perpetrator, who could alone be cognizant of them, in their concealment. There was no reality, then, in the recommendation of the law, which related to the prevention of wasteful or fraudulent alienations of the property of the bankrupt. Its other recommendation, relative to the distribution of the effects of the bankrupt, was equally delusive. In the first place, the legitimacy of this object was a subject of question, inasmuch as it precluded the priority which superior diligence would acquire in the attainment of the satisfaction of claims. But, the advantage, whatever might be its character

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

as to fairness, was entirely illusory. How could there remain any fund, of consequence, to distribute, after the incurrence of bankruptcy? As long as funds remained to the failing party, they would be employed in averting the bankruptcy. This employment of them could not be restrained by any modification of system; the residuum could not, in the majority of cases, be more than sufficient for the discharge of the heavy expenses of the administration of the law. The experience in England and this country, as far as the evidence had been laid before us, corroborated this remark. In the former it had been affirmed, that the probability of dividend was in no case to be considered as worth two shillings in the pound. In the State of Pennsylvania, from which State alone complete returns, as respects the operation of the old law, had been received in somewhere about two hundred cases, those affording dividend at all, had amounted to little more than thirty. The tendency of the expenses of the system to swallow up the moderate chances of dividend, was also worthy of observation. There could be no effectual plan of restraint on this expense; no person had or could have any interest in this restraint. The persons to whom the administration of the law was confided, had the direct contrary interest, depending, as their remuneration did, on the largest of the expenses. It was not strange, therefore, that in England, the system should be found to be little more than a contrivance for the benefit of the bankrupt, and the persons employed in its administration.

So far, then, as related to the advantages proposed to the creditors, the powers of a bankrupt system appeared to be inadequate to its objects, and these objects to be fallacious. A similar remark applied to the influence which was anticipated from the power of denying the certificate of discharge, in cases of malpractice by the bankrupt. In England, a case of denial of the certificate of discharge was never heard of, no matter what had been the conduct of the failing party. The fraudulent bankrupt, as was shown by the evidence taken before the Committee of the House of Commons, was the least liable to failure in this respect, from his obvious means of addressing himself to interested feelings, by the influence of corrupt considerations. Independently, however, of the access of corrupt influence, the modes of influence, through the medium of better and blameless considerations, were to many to be resisted. Personal solicitation, the importunity of friends, placability of temper, the fear of illiberal imputation, the operation of sympathy, would all concur to prevent the denial of the certificate. The knowledge of these circumstances, in combination with the influence of the hope of avoiding the bankruptcy, would always outweigh, in the mind of the bankrupt, the fear of denial of his discharge, and prevent any restraint upon his misconduct from the influence of this consideration.

The further restraint intended on the bankrupt, from the penalty denounced against misconduct, was equally inefficacious with that which had been considered a penalty denounced for failure of

the party to testify against his own interests, real or supposed, which was the character of the penalty in question, could never be of any efficacy, from the impossibility of its execution. It had been said that in England, in forty thousand cases of bankruptcy, there had been not more than ten prosecutions, and three convictions for the penalty of the law. But if this argument, from the impossible execution of the penalty, was forcible under the highly penal code and rigorous administration of it which prevailed in England; in this country it was irresistible. All the guarantees then of the system, independently of whose efficacy it was insusceptible of defence, were found to be invalid. The powers it created in furtherance of its objects, had been seen to be no less so. Its objects had been seen to be either illegitimate or fallacious. Or wherever, finally, this was not their character, they were equally attainable by the operation of an insolvent system, to the character of which no objection could be entertained. The same powers might be created, and modes of proceeding authorized, under the one system, as the other, whilst the same objection to principle, and the same inducement to fraud, would not exist in relation to the one, which did in relation to the other.

Mr. A. proceeded to make some remarks on the structure of the bill, to the essential indispensable features of which, he said, he was not precluded from objecting, by the restraint to which he had submitted at the outset, in relation to the investigation of details. The amount of these remarks was, that the bill discriminated in favor of fraudulent bankruptcy; that the description of the acts constituting bankruptcy, was objectionable on the score of extreme vagueness; that the modes of proceeding which it authorized were in the highest degree arbitrary, tending to the introduction of a complicated, anomalous, and detestable plan of peculiar jurisprudence, which was to be involved in, or to operate simultaneously with the ordinary system. Mr. A. objected further to the plan of administration of the law, which he contended was extravagantly expensive, deficient in responsibility, and liable to corruption. He detailed, from the British evidence, some of the more general testimony, as respected the operation of the law in that country. It had been described there, on the most respectable testimony, as attaining none of the advantages it had in view, and diminishing none of the evils it professed to redress; as a system which defeated particular rights, under the appearance of proceeding for a common benefit; as a mode of conspiracy for the purposes of fraud; as a scandal and a nuisance; as the prominent evil of the day. Although the certificate of discharge was never or rarely known to be denied, and least of all to the fraudulent bankrupts, frauds had become so common as to lose the nature of crime, and finally the manifestation of design to take the benefit of the law, was regarded as the most conclusive evidence of fraudulent intention. This was the system, branded by those who had been best acquainted with its operation, with every epithet of obloquy which language could furnish to moral indignation, that was now recommended

H. OF R.

Banks of Deposit, &c.

FEBRUARY, 1822.

to our adoption. It remained with the sound discretion of the Committee and the House to determine whether this recommendation should be complied with. For himself, Mr. A. said, he thought with Sir Samuel Romilly, the respect due to whose opinions had now the sanction of the grave, "that the greatest moral evils must flow from any law which offers the hope of release from debts to men who are not able or willing to pay them." These evils appeared to Mr. A. to be a price almost too great to be paid for the preservation of one generation of the human race.

Mr. A. concluded by saying that his solicitude in relation to public measures, was directed rather to a due discharge of the part it became him to act than their event. This measure might pass. If it did, his consolation would be, that his efforts, though without effect, had been exerted strenuously to defeat it.

When Mr. ARCHER had concluded—

Mr. BARBOUR (the Speaker) rose, and intimated his intention to present some general views of the subject that had occurred to him, and (the usual hour of adjournment having arrived) moved that the Committee rise and report, which was agreed to, and leave was given to sit again.

FRIDAY, February 15.

Mr. EUSTIS presented a petition of Moses White, executor and representative of Moses Hazen, a brigadier general in the Revolutionary army, praying that the claims for the services of his testator may be finally settled, according to the resolutions of Congress of the 22d January, 1776, and 25th April, 1781; which petition was referred to the Committee on Pensions and Revolutionary Claims.

Mr. GORHAM presented a memorial of sundry merchants, ship owners, and other inhabitants, of the town of Boston, in the State of Massachusetts, against the repeal of so much of the acts of the 18th of April, 1818, and 15th May, 1820, concerning navigation, as prohibits British vessels entering the ports of the United States with cargoes, the produce of the British West India islands and other British-American colonies; which memorial was referred to the Committee of Commerce.

Mr. MILNOR presented a memorial of sundry inhabitants of Alexandria, in the District of Columbia, in favor of the establishment of an uniform system of bankruptcy for the United States; which memorial was referred to the Committee of the whole House to which is committed the bill upon that subject.

Mr. CAMPBELL, from the Committee on Private Land Claims, made a report on the petition of James Brisban, accompanied by a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. McLANE, from the Committee on Naval Affairs, reported a bill for the preservation of the timber of the United States in Florida; which bill was read twice, and ordered to be engrossed and read a third time to-day.

An engrossed bill, entitled "An act for the pre-

servation of the timber of the United States in Florida," was read the third time, and passed.

BANKS OF DEPOSITE, &c.

The SPEAKER laid before the House a report of the Secretary of the Treasury, made in obedience to the resolution directing him to report the banks in which the moneys received from the sale of public lands have been deposited since 1st January, 1818; the contracts under which the deposits have been made; the correspondence relative thereto; the amount of deposits left in each, &c.; which report was ordered to lie on the table.

A motion was made that the same, together with the documents, be printed. A division of the question on this motion being called for, the same was put on so much as proposes to cause the said report to be printed, and passed in the affirmative.

Mr. TAYLOR then moved that the question on the residue of said motion, which proposes to cause the documents to be printed, be postponed until Monday next; which passed in the affirmative.—The report is as follows:

TREASURY DEPARTMENT, Feb. 14, 1822.

SIR: In obedience to a resolution of the House of Representatives, directing that the Secretary of the Treasury lay before the House "a statement showing in what banks the money received from the sale of the public lands has been deposited since the 1st of January, 1818; the contracts under which said deposits have been made; the correspondence between them and the Treasury Department relative thereto; the amount of deposits that were to be left in each, in consideration of taking charge of the balance of the money deposited; whether, in any instance, the deposits allowed for that purpose have been increased, and why such increase was allowed; together with copies of their situation furnished to said Department for the last twelve months preceding such increase; whether any of those banks have failed to comply with their engagements, and to what amount; the statements made by each for the last twelve months preceding its failure; what measures have been taken, in consequence thereof, to secure the Government against any losses resulting from such failure; what those measures have been, and at what expense; whether in any instance, uncurrent or depreciated paper has been received from them or any of them, which the Government was not bound to receive by any agreement between such banks and the said Secretary; and whether any further measures are necessary to be adopted by Congress to provide for the transmission of the public money from the different receivers to a more safe place of deposit, and, if so, what plan is most desirable"—I have the honor to submit the several statements and contracts, together with the correspondence, required by the resolution.

From an examination of the provisions contained in these contracts, it will be perceived that the principal inducements on the part of the Treasury to make them were—first, to increase the facilities of making payment for lands previously purchased; and, secondly, to secure the transmission of the public money from the places of deposit to those where the public engagements required it to be expended, with the least derangement of the ordinary moneyed transactions of those States from whence the funds were to be withdrawn.

FEBRUARY, 1822.

Banks of Deposit, &c.

H. OF R.

By statement X it will be seen that the debt due by individuals for the purchase of public lands had, between the last days of January, 1815 and 1819, been augmented from three millions forty-two thousand six hundred and thirteen dollars and eighty-nine cents, to sixteen millions seven hundred and ninety-four thousand seven hundred and sixty-five dollars and fourteen cents.

In the year 1817, most of the banks in the States where the land offices were established, and in those parts of other States immediately adjoining them, had resumed specie payments. In the following year a great proportion of them stopped payment; and, in the early part of 1819, the price of all articles produced in the Western States fell so low as scarcely to defray the expense of transportation to the ports from whence they were usually exported to foreign markets. This condition of things, which had not been anticipated when the debt for the public lands was contracted, produced the most serious distress at the moment, and excited alarming apprehensions for the future. The forfeiture of the lands purchased between the two periods already described, and of the great amount of money paid at the time of purchase, appeared to be a result almost inevitable, unless some facility in making payment could be afforded. The resumption of specie payments by the banks whose notes formed, almost exclusively, the circulation of the States where the debt had been contracted, and the receipt of those notes at the land offices, seemed to be the only facility which it was practicable to afford. To effect this object, the contracts in question were tendered to the local banks as a modification of the various propositions which had been made by them to the Department. The extent of the facility which would be afforded by the receipt at the land offices of the notes of such local banks as should resume specie payments, would necessarily depend upon the amount of the public expenditure at the banks of deposit, and the capacity of those banks to transfer what could not be thus expended to the places where the public interest required. At that time an inconsiderable portion of the sum received at the land offices was expended in the States in which they were established. An inducement to transfer the remainder was to be presented to the banks which were to become the depositories of the public revenue arising from the sale of the public lands. In making the proposition to the local banks to transfer such portion of the public money deposited in their vaults as could not be expended by them on Treasury drafts, with the exception of the sum agreed to be left in deposit, the obligation of the Bank of the United States to transfer the public money to such places as the public exigencies shall require was duly considered. This obligation extends to money, and not to bank notes. The bank was under no obligation to effect the transfer of the public funds by disposing of the notes of the local banks which had been received at the land offices in the purchase of bills of exchange, rather than by a direct transportation of specie to the places designated. To have proposed the resumption of specie payments to the local banks, on the condition that they were to become the depositories of the public money received at the land offices, whilst the obligation of the Bank of the United States to transfer the public revenue was to be enforced, was to insure another failure on the part of those banks; as they would have been required, at short intervals, to discharge in specie the whole

amount of their notes which had been received at the land offices. If the specie which would thus have been drawn from their vaults could have been restored to the local circulation, by the operations of the Government, it would have been practicable for the local banks to have continued specie payment. But the whole of the sums which would have been drawn from them by the Bank of the United States would have been transferred to the commercial cities in the Atlantic States, whence its return would necessarily have been slow and precarious. It was, therefore, indispensable to any proposition for inducing the local banks to resume and continue specie payments, that the obligation to transfer such part of the public money deposited with them as was to be expended at other places should be imposed upon those banks. Although it was manifestly their interest that this operation should be effected without suddenly withdrawing from circulation the amount to be transferred, yet it was equally manifest that it could not at all times be performed without inconvenience and expense. It became, therefore, necessary to present to them some other inducement to assume this obligation, than the mere possession of the public funds during the time that was requisite for making the transfer. The idea of a deposit which they were not bound immediately to transfer was adopted by the Treasury, and accepted by the banks. This deposit, however, with the exceptions which will be hereafter explained, was liable to be reduced at all times by the payment of drafts of the Treasurer whenever it was practicable to expend money at those banks. The whole amount deposited in them was, at all times, at the disposition of the Government, whenever the public service should require it, and the opportunity of expenditure at the banks of deposit shall occur.

During the existence of the former Bank of the United States, a number of State banks were, by the Secretary of the Treasury, made banks of deposit, upon conditions which secured to them a considerable amount always on deposit, without, however, specifying any particular sum. It was stipulated that the moneys deposited in them should not be drawn for *en masse*; and that whenever drafts should be drawn upon them with a view to transfer any portion of the public money in their possession, they should be drawn payable at sixty days. As these drafts were always issued for smaller sums than were at the time on deposit, the banks generally retained in their possession a sum exceeding the amount of the deposits in sixty days. An arrangement or contract of this kind still exists with a number of local banks in the States of Maine, Massachusetts, Rhode Island, Connecticut, Vermont, and Virginia,

With the Bank of the United States an arrangement for the transfer of the public funds has been found requisite, which necessarily leaves a considerable balance on deposit in those offices from which transfers are to be made. For the transfer of the public funds from New Orleans, and from the Western States, to the principal cities on the Atlantic coast, the bank is allowed four months; from places north of the seat of Government to those south of it, two months; and from and to places north of it, and from and to places south of it, one month.

In the States of Indiana, Illinois, Missouri, Mississippi, and Alabama, the Bank of the United States has established no office. In several of those States it was found impracticable for the receivers to make

H. OF R.

Banks of Deposit, &c.

FEBRUARY, 1822.

their deposits in that bank or its offices, without incurring an expense nearly equal to the amount of their salary and emoluments. In such cases, the only alternatives left to the Department were, to suffer the public money to remain in the hands of the receivers until it could be expended, or to direct it to be deposited in some of the local banks. Experience had shown that it was not prudent to adopt the first of these alternatives. Indeed, Congress, influenced probably by this conviction, had, in the year 1800, directed that the revenue bonds in Boston, New York, Philadelphia, Baltimore, Norfolk, and Charleston, should be deposited for collection in the Bank of the United States and its offices established in those cities; and in 1809 it was further directed, by law, that the principal disbursing officers of the Government should, whenever practicable, keep the public moneys in their hands, in some incorporated bank, to be designated for the purpose by the President of the United States. Acting in the spirit of these legislative injunctions, founded upon the idea that banks furnished an additional security, not only in the collection but in the disbursement of the public revenue, my predecessors in office had directed that the public money, whenever collected, should be deposited in banks in the vicinity of the officers who collected it. When the Department was placed under my direction, in October, 1816, there were eighty-nine banks of deposit in the different States of the Union.

If recent experience has furnished evidence in any degree conflicting with that which produced the legislative injunctions to which I have referred, it has also shown that the official integrity of the public agents has not been augmented.

By referring to the contracts, it will be seen that deposits have been made in the Bank of Mississippi at Natchez, in the Farmers and Mechanics' Bank of Indiana, and in the Franklin Bank of Columbus, Ohio, upon conditions somewhat different from those of the other banks. In the first, there is no stipulated deposit, as it was presumed that the whole amount which would be received could be disbursed at the bank, or transferred without hazard or inconvenience to New Orleans. The banks, too, whose notes circulated in that State, were generally of established credit; so that but little, if any, risk was incurred in receiving and crediting them in the account of the Treasurer as specie. The frequent and safe intercourse between Natchez and New Orleans made it easy for the receiver west of Pearl river to make his payments in the office of the Bank of the United States. The failure of that officer, however, to make his deposits with regularity, and his misapplication of a large amount of the public money, about two years ago, suggested the propriety of effecting an arrangement with the Bank of Mississippi.

The second is entitled to a deposit, which is not to be diminished by Treasury drafts. It is bound to transfer to the Bank of the United States, or its offices, any excess above that deposit which it may receive from the land offices, and which cannot be disbursed at the bank. As nearly the whole amount that should be received by the bank would have to be transferred, it was deemed just that the stipulated deposit should not be diminished by the payment of Treasury drafts; and it was believed that any profit which the bank could derive from it would not be more than equal to the expense which would necessarily be incurred in making the stipulated transfers.

The third is entitled to a small deposit, not liable to be diminished, and is not bound to transfer any part of the public funds deposited with it. From the geographical situation of the bank, it was intended to be the depository of the public moneys disbursed upon the northwestern frontier, as far as Lake Superior, with the exception of what was received at Detroit and Michilimackinac. In this case, as the bank was not bound to transfer, the deposit was intended simply to indemnify it against losses which it might incur from the failure of any bank whose notes might be received at the land offices and deposited with it.

The deposits stipulated in the contracts have, in no instance, been increased; but sums to a much greater amount have, at different times, been in the possession of these banks. In some cases, this has been the result of a want of punctuality in making the transfers according to the conditions of the contracts, and in others, of an expectation that the amount in deposit of a particular bank might be expended without transfer.

The following statement shows the number of local banks which have been employed since the 1st of January, 1818; the amount of deposit to which they were entitled; the amount of the proceeds of public lands received by them, respectively, since that time; and the amount yet to be accounted for by each:

Banks.	Amount of deposit.	Amount received.	Am't now in possession of the bank.
Bank of Steubenville	\$50,000	\$307,230	\$167,297
Bank of Chillicothe	100,000	227,244	15,000
Franklin Bank of Columbus	20,000	112,990	48,038
Farmers and Mechanics' Bank of Indiana	40,000	352,883	36,764
Bank of Illinois at Shawneetown	50,000	164,629	64,598
Branch Bank of Kentucky at Louisville	100,000	139,428	58,943
State Bank of Mississippi at Natchez	100,000	165,950	19,930
Bank of Tombigbee at St. Stephen's	100,000	1,068,476	93,669
Planters and Merchants' Bank at Huntsville	75,000	763,059	64,044
Bank of Missouri	150,000	1,088,383	152,342
Bank of Vincennes	75,000	310,346	168,453
Bank of Edwardsville	40,000	210,644	46,202
Farmers and Mechanics' Bank of Cincinnati	100,000	47,785	36,966

Banks in which the receipts from the public lands are deposited.

FEBRUARY, 1822.

Banks of Deposit, &c.

H. OF R.

In addition to the amount deposited in these banks, there has been deposited in the Bank of the United States and its offices the sum of \$2,959,523.

It results from this statement, that there has been deposited in those banks the sum of \$4,958,997, and that there remains in their possession, yet to be accounted for, the sum of \$972,236. Of this amount the sum of \$526,950 is due by banks which have stopped payment, and are no longer banks of deposit, viz: the Planters and Merchants' Bank at Huntsville, the Branch Bank of Kentucky at Louisville, the Bank of Missouri, the Bank of Vincennes, the Bank of Edwardsville, and the Farmers and Mechanics' Bank at Cincinnati. It is but just, however, to state that the bank at Huntsville has made large payments into the offices of the Bank of the United States at New Orleans and New York since its failure, and that no doubt is entertained that it will discharge the remainder in the present year. These are the only banks which have failed to comply with their contracts.

The statements made by these banks for the twelve months preceding their respective failures, as far as they have been received, are marked Cc, Ee, Gg, Jj, Ll. The statements of the Bank of Missouri will be found in the correspondence.

From the Bank of Tombigbee there have been received \$15,311, in the notes of the State Bank of North Carolina; from the Bank of Missouri there have been received the following sums, viz: in notes of the State Bank of North Carolina, \$42,000; of the Bank of Nashville, \$29,844; of the Farmers and Mechanics' Bank of Cincinnati, \$11,845; of the Miami Exporting Company, \$8,661; of the Bank of Cincinnati, \$3,846; of the Bank of Muskingum, \$291; and of the Farmers, Mechanics, and Manufacturers' Bank of Chillicothe, \$350; and from the Bank of Edwardsville, there have been received \$18,562 in notes of the Bank of Kentucky and its branches. In the first two cases, the notes were received in the month of March, 1820; and in the third, in October, 1821. All the notes above described were uncurrent at the time they were received from the banks. They were current when they were received at the land offices, and when deposited in those banks for safe keeping. These deposits were made before the date of the contracts by which the banks engaged, not only to account to the Treasury in specie for bank notes deposited in them, which might become uncurrent while in their possession, but in like manner to account for such as might become uncurrent in the hands of the receivers of public money, which had been received before notice of the failure of any of the banks whose notes the banks of deposit had authorized them to receive. As the banks of deposit before the date of these contracts exercised no discretion or judgment in determining what local bank notes should be received, it was not understood that they assumed the responsibility of accounting to the Treasury in specie for notes deposited with them for safe keeping, which should become uncurrent while on deposit. Such is now the relation of the Bank of the United States to the Treasury, in all cases where the notes of the State banks received at the land offices are deposited in it, except the notes of the banks in the commercial cities of the Atlantic States. In no other case have uncurrent bank notes been received from any bank in which the public money has been deposited; nor have any such notes been received in contravention of any agreement between the Department and those banks.

It is proper to state, that the whole of the notes of the State Bank of North Carolina have since been discharged; and that of the Nashville Bank notes, there remains only \$4,203 89 unpaid.

When the Bank of the United States went into operation, there was a very large amount of uncurrent bank notes in the Treasury, which were designated by the term *special deposit*. It consisted of bank notes which had been received on account of the Treasury, and which were refused to be entered to the general credit of the Treasurer by the eighty-nine banks in which the public money was then deposited; notwithstanding all those banks, with the exception of a few in the Eastern States, did not at the time discharge their own notes in specie. This amount was greatly increased by the balances in those of the Western banks, which, when the public deposits were turned over to the Bank of the United States, were unable to make any arrangement for their payment. To convert this special deposit into current money, the Bank of the United States tendered its best efforts, which were accepted by the Department. A considerable portion of the sum was, by the agency of the bank, converted into available funds; but, towards the close of the year 1818, the bank declined all further agency, under a conviction that its efforts were rather injurious than beneficial to the public interest. In the early part of 1819, the amount of special deposit then in the Bank of the United States was transferred to the Bank of Columbia, which had offered its services in collecting it. In the course of that year, its cashier visited the banks whose notes constituted the special deposit, and which were established in the interior of Pennsylvania, Maryland, and Virginia, and in various parts of the State of Ohio. During his tour, he succeeded in converting a portion of the notes into current money; in most other cases he obtained written acknowledgments of the amount due, and generally an engagement to pay interest until the debt was discharged; and in several instances collateral security was proposed, which has since been accepted. Whilst in the execution of this service, he was charged to call upon the Farmers and Mechanics' Bank of Cincinnati for the amount which had been deposited with it during the three months that it had resumed specie payments in 1819. He was not able, however, to make any arrangement either for the payment or security of the debt.

Since that time, the claims of the Treasury upon the banks in Ohio, and in the interior of Pennsylvania, Maryland, and Virginia, have been placed in the hands of the attorneys of the United States, with instructions to endeavor in every case to obtain collateral security, where it is practicable. Their efforts, in conformity with these instructions, have been attended with some success; but it is now manifest that a resort to legal coercion will, in some cases, be necessary.

A bill of expenses incurred by the Bank of the United States, in its effort to convert the special deposit into available funds, has been presented, amounting to \$3,113 80.

Expenses have also been incurred by the attorneys of the United States in obtaining collateral security, which, together with a reasonable compensation for their services, will be a charge upon the Treasury, whenever their accounts shall be presented.

The receiver at St. Louis has been authorized to call upon the Bank of Missouri for the amount of public money in its possession at the time of its failure,

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

and, in case of its refusal to pay, to obtain such collateral security as will insure the ultimate discharge of the debt.

The same authority has been given to the register at Edwardsville, in relation to the public money which was in possession of the Bank of Edwardsville at the time of its failure.

The result of the efforts made by those officers, in conformity with the powers with which they have been vested, has not yet been made known to the Department. For the services which they may render a reasonable compensation will be allowed, but no expense has been incurred on this account by the Government.

No measures have been taken to enforce or secure the payment of the public money in the possession of the Branch Bank of Kentucky at the time of its failure, because assurances were given that the whole amount would be paid within the time and in the manner prescribed by the contract. A considerable part of the sum has accordingly been paid; but, recently, no exertions appear to have been made to discharge the balance.

For the public money on deposit in the Bank of Vincennes at the time of its failure, collateral security has been obtained. For this service no expense has been incurred, as I had the honor to state in my report of the 28th ultimo.

The great decrease which has occurred in the receipts from the sales of public land since the passing of the act for changing the compensation of receivers and registers, in the year 1818, when the commission of the former was reduced from one and a half to one per cent. upon the amount received, has made their compensation extremely low, without the diminution which would necessarily be made by the expense of transmitting the money received to distant places. When that reduction took place, the local banks had, generally, resumed specie payments, their notes were received at all the land offices, and the banks of deposit were every where in their immediate vicinity. In most cases no expense was incurred in transferring the public money, and very little in any case. At this time the number of places of deposit is greatly lessened, and past experience indicates the propriety of a still further diminution. The general failure of banks in the States where land offices are situated, and the impracticability of the officers of the Bank of the United States established in the Western States keeping in circulation any of their notes, have compelled the public debtors to make their payments principally in specie. The expense of transportation has consequently greatly augmented. It is obvious, therefore, that the commissions of the receivers of public money ought to be increased, or that the expense of transferring the public money from the land offices to the banks of deposit ought to be paid by the Government.

In terminating this report, it is respectfully submitted whether it is not expedient that some special authority be given for the disposition of the special deposit now in the Treasury. A considerable amount of this deposit consists of bank notes, which, though uncurrent, and therefore not applicable to the public service, may yet be disposed of on loan, upon such security as to insure its conversion into current money at the expiration of one, two, and three years. Another part consists of engagements by banks whose notes are uncurrent, which, it is presumed those banks would willingly discharge by the issue of their notes, and which might be disposed of in the same manner.

There is, however, a small portion which probably cannot, without considerable loss, be converted into current money by any measure whatever. An authority to dispose of so much of the deposit as is of this description, upon the best terms that can be obtained for it, will probably save something to the Treasury; as delay in relation to it can have no beneficial effect. I have the honor to be, &c.

WM. H. CRAWFORD.

Hon. SPEAKER of the
House of Representatives.

[The papers accompanying the report are too voluminous for insertion.]

The SPEAKER also laid before the House a report of the Secretary of the Treasury, containing the information required by the resolution submitted by Mr. REED, of Massachusetts, on the 5th inst. in relation to the appointment and employment of deputy collectors of the customs; which report was read, and referred to the Committee on Commerce.

THE BANKRUPT BILL.

The House then resolved itself into a Committee of the Whole on the unfinished business of yesterday—the Bankrupt bill.

Mr. P. P. BARBOUR, (Speaker,) rose, and expressed his obligations to the Committee for their politeness in adjourning yesterday to give him an opportunity of presenting his views on the question before them. And he would beg leave again to assure them, that, after the full and able discussion which the subject had received, he would not have intruded upon their patience at all, but for the considerations which he had yesterday suggested. It was a question that had divided the opinions of the people of this country for many years; and while one portion of the community was strenuous for its adoption, the other, and in his opinion much the largest class, was as strenuously determined on its rejection. Yet, as long as the great principle remained undecided, public opinion would not be at rest; and it was therefore material to come to a conclusion, either by the passage or rejection of the bill; and, after a fair discussion of its merits, he could not but cherish the hope that the decision would be final, and that the people would acquiesce so far in the result that the subject would not be brought again upon the tapis of national legislation. Mr. B. was aware that economy of time was a desirable part of the economy of the House; he would not, therefore, consume it, by the very act in which he would deprecate its consumption; nor was he willing to bestow any portion of it upon considerations that were not directly and distinctly addressed to the understandings of the Committee by way of argument. Yet he could not forbear to make one or two remarks in relation to the picture that had been drawn by the gentleman from Pennsylvania, (Mr. SERGEANT.) He had told an affecting story, in which imagination had lent its most glowing tints in delineating the bankrupt's family group. It was an appeal calculated to awaken the feelings of the human heart, and to touch the tenderest cord that binds man to his fellow. He (Mr. B.) hoped he was not destitute

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

of some portion of the milk of human kindness, nor dead to the appeals of sympathy; but were he capable of holding and directing the pencil of his friend, he thought the account of sympathy would be more than balanced by another family picture, which sombre reality would enable him to sketch. Were he disposed to a course of this sort, he need not wander far into the regions of fancy to delineate, not one family only, but thousands, who, by hard-earned industry, by the sweat of their brow, and, by a life of ceaseless labor, had extracted from the reluctant soil a scanty support, but who, by the failure of the very merchant for whom this bill provided, were brought down to poverty and ruin. And while that merchant is absolved from his contract, this wretched man, worn and bowed down by age and labor, sinks amid the hapless family around him, with that sickness of heart which arises from hope deferred. But suppose the moral portraiture extended, and the man who has sold the produce of his labor, is brought into view and contact with the merchant to whom he has sold it, and whose failure is the cause of his sufferings. The merchant has obtained the benefit of the act on your table. The farmer is excluded. What is this but adding insult to the injury he has already sustained? His case may be beyond the redeeming power of hope; it may become more mortifying and wretched by the gloomy power of contrast; for, whilst he, with his family, shiver over a desolate hearth, the equipage of the merchant, if he be afterwards fortunate, may shine with the brilliancy of a meteor, and his palaces rise like the exhalations of the morning.

Mr. B. was led, he observed, to this digression the rather to show that nothing in legislation was so dangerous as to surrender our judgments to our feelings. If, indeed, he could indulge those sympathies that had been appealed to, without a violation of the first principles of duty and justice, the application would not perhaps have been made in vain. But sympathy was not to be indulged to the exclusion of justice; nor was charity, however amiable and benignant, to be extended at the expense of that great and eternal principle which was written by the finger of God in indelible characters on the heart of man, and transcribed into the volume of his law, which commands us to "render unto Cæsar the things that are Cæsar's."

In the discussion of this question, Mr. B. said, he should not enter into a consideration of the details of the bill. The question now raised was upon striking out the first section to test the principle, and to determine whether any bankrupt law, with any modification, was expedient or just. He would not discuss the details, because, as the present motion anticipated any amendment which might be offered, the friends of the system might complain of being deprived of the opportunity of correcting those errors in the detail, that were objected by those who opposed it. Nor was he about to examine into the practical operation of the bankrupt system in England. The subject had been already fully and ably explored. It had been bolted down to the bran, and its effect upon that country had been sufficiently examined and

minutely traced by his colleague (Mr. ARCHER) who had preceded him. But he should oppose the bill on the ground that it was incompatible with justice, with morality, and a fair construction of the principles of the Constitution. Whenever a measure is brought into this House which is calculated to have so important a bearing upon the transactions of society as the present, it is incumbent on its friends to prove that the ends which it proposes to attain, are in themselves desirable, that the measure is adequate to their attainment, and that the means resorted to are compatible with the principles of sound legislation, and of the Constitution. Let us examine this bill by these criteria: The first avowed beneficial effect which it is proposed to attain, is in favor of the creditor, and the second in favor of the debtor.

It had been yesterday remarked, by his colleague, (Mr. ARCHER,) and, in his opinion, with great force, that it was as easy to approximate the antipodes to each other, as to reconcile the adverse and opposing interests of debtor and creditors. They were in their nature intrinsically variant and conflicting. It was as hopeless to expect it in the moral as in the physical world; for you might as well expect between natural objects, to approach the one without receding from the other, as to advance the interests of the debtor, in the relation between them, except at the expense of the creditor.

But how does the bill benefit the creditors? It is certainly not by increasing the fund from which their debts are to be paid. So far from this, that it unquestionably diminishes the totality of that fund. In the first place, a proportion of that fund is proposed by the bill to be reserved to the use and sustentation of the bankrupt. This allowance, he admitted, was not great; but, at present, all the funds of the debtor were liable to the creditor. Of consequence, it could not be said to be beneficial to the creditors, by increasing the means of their payment, but, on the contrary, diminishes the probability that his debt will be fully paid.

In the second place, it is observable that, under the law as it now stands, not only the property which the bankrupt possesses, but all that he may hereafter acquire, whether by good fortune or by good conduct, is liable to the payment of his debts. Yet this ulterior fund was entirely cut off by the bill. It was out of the question then that the creditor is helped by an increase of the debtor's funds. What other way is there in which the creditor's interest is to be promoted? To this it is replied, in the first place, that all the creditors are placed on an equal footing. But, even supposing this to be the operation of the law, it was more than doubtful whether its passage was necessary to any purpose of justice. No man can stand in the relation of creditor to another until that other shall have received from him some valuable equivalent, and the amount of the bond given by the debtor is the precise measure of the value of that equivalent as agreed upon by the parties. And, can it be unjust for me to receive what another man for a good and fair consideration has promised to pay? If it be not unjust for me to

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

receive, it cannot be unjust for the debtor to pay, because the paying and receiving together constitute but one transaction. There was a marked and essential difference between this case and that class of cases to which the doctrine of *contribution and average* applied, the principle of which he understood to be this—that the parties must be embarked in a common bottom; that they must have a common interest; that the one must have derived benefit from the loss of the other, as would appear from the cases which he would now state as illustrations of the rule. If a storm arise in the course of a voyage, and the goods of B be saved by lightening the ship in throwing overboard the goods of A, there was a contribution made in the nature of an average—but why? because all are benefited by throwing them over. So in an attack by pirates—if the goods of B be thrown over to lighten the ship and enable her to make more sail and thereby escape them, a contribution is demandable; but if the assault be made, and the vessel taken, no such contribution can be required. And why? Because the destruction of part of the goods is in nowise contributory to the preservation of those which may be saved. But to admit, for the sake of argument, that this equality contended for was a desirable object; yet, he contended, it was not attainable in practice under a bankrupt system. The bill itself recognised as valid every payment, sale, conveyance, &c., made *bona fide*, and for valuable consideration, at any moment before the commission of an act of bankruptcy. In the nature of things this could not be avoided without confounding all the distinctions of right and wrong; without declaring fairness and fraud to mean the same thing; without making a subsequent act of bankruptcy vacate all the antecedent transactions of the bankrupt, no matter what might be their date, or what their intrinsic propriety. Give me but this principle, said Mr. B., and what becomes of this imaginary equality? The substance is gone, and you divide a shadow. The productive fund has disappeared, but the small change, with great gravity, you divide equally! The mountain has sunk; but a fragment remains, of which each creditor takes, more or less, a particle, that may be laid up in his cabinet of curiosities. Yet, the preservation of even these is doubtful; after the demands of Messieurs Assignees, Clerks & Co. have been satisfied, it may be fairly questioned whether the remnant is worth the care of preservation. But, admit the most favorable construction. Suppose the case: a merchant owes \$50,000; he has \$31,000 of effects, of which \$30,000 are in bank, and he owes that sum to a friend, his endorser, and lender, *bona fide*, and very honestly gives him a check on the bank for full payment. In a few weeks or months he becomes bankrupt, and there remains, what? \$1,000 to divide among \$20,000 of debts, and perhaps 500 creditors—and this is called equality! equalization of payments! The equality suggested is ideal. It may amuse the imagination, but can never replenish the pocket. Why, then, talk of the benefit the creditor is to receive from the provisions of the bill? Do the creditors,

and surely they are astute enough in discerning, and forward enough in asserting what they conceive to be their interests—yet do they ask it of you? Or do they not rather repel your officious kindness? How is it even in New York, the commercial emporium of this country, the London of America, as it is sometimes emphatically called, do we find an unanimity of sentiment even there in favor of the bill? No, sir, we find projects indeed, but counter projects; memorials, but counter memorials, that not only neutralize them, but lead to the inference that considerations of public good are not, perhaps, wholly disconnected from views of private interest. And so far from the fact that the passage of the bill was called for by the voice of the people, he (Mr. B.) was fully persuaded that a vast majority—yes, an overwhelming majority of the people were prepared to decide against it. Particularly was this the case with the great agricultural community, not only of the State he had the honor in part to represent, but, so far as he had been able to ascertain, of the other States in the Union. And it was this community, he was proud, and happy, and bold to say, constituted the bone, and muscle, and sinew, of this Government.

Let us then put it, said Mr. B., upon its proper footing; upon that footing on which alone it could stand; that it was in reality a bill, not for the benefit of the creditor, but for the benefit of the debtor, and of him alone. And this was, in his opinion, the true object and fair result of the bill; the period of its limitation is strongly corroborative of this idea. For why was it proposed to limit its operation to three years? In order that we may ascertain (say its friends) its effects by way of experiment. In the development of some sciences, said Mr. B., experiments were doubtless necessary, and some departments, even of philosophy, were termed experimental. But experiments in politics were always dangerous. They should never be made, unless they come within the rule of Lord Bacon, where “the necessity for them is strong, and their utility manifest.” The object of an experiment is to gain some knowledge that is not now within our reach. But what is the fact in the present case? It was proposed to have an experiment of three years, upon a subject, on which we have already had the experience of another country for three centuries! It is said, indeed, that this bill is an improvement upon the English system. He should not examine the bill to draw a comparison from its details, but if, with all the experience of three hundred years, the British Parliament, with its acknowledged talents and wisdom, had not been able to give to the system such a shape as was in the least degree conducive to any purpose of justice or good policy; but, on the contrary, with all their efforts at improvement, it was considered there as a great evil, and public nuisance, could we, for a moment, indulge the hope, that, with only three years’ experience, we could discern with more sagacity, or apply with more effect, remedies to the system, than the wise men of that nation during the long lapse of time in which we are told

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

their bankrupt laws have existed? But if we recollect that, in three years, all those who are now bankrupts, and who are anxious to obtain the benefit of the law, can avail themselves of it, it is not difficult to discover the reason why a limitation, so very short, is proposed for the experiment.

Mr. B. would now proceed to the consideration of the more immediate and essential objections to the bill. It was calculated, he believed, for the exclusive benefit of the debtor; nor would this be an objection in his mind against it, if it did not at the same time do violence to the principles of the Constitution, and to those fundamental principles on which society is based, and by which the moral elements of the world are kept together. All these sacred principles he would attempt to prove were violated first by the provision which went to the annihilation of the contract, and, secondly, by the retrospective operation of the law. Gentlemen tell us that it is authorized by the express words of the Constitution, and they read us the words, "the Congress shall have power to establish uniform laws on the subject of bankruptcies throughout the United States," to support the position. Having thus derived from the Constitution the power to pass uniform laws on the subject of bankruptcies, they assume, that, as by the bankrupt system of England, (from whence it is said we derived the term,) the obligation of the contract is extinguished; therefore it follows, that the term was used in the same sense in our Constitution, and that consequently it is of the essence and very nature of a bankrupt law, to extinguish the contract by an exemption of the after acquired property of the bankrupt, from liability for his debts.

It was worthy of observation, said Mr. BARBOUR, that the great error in human reasoning was more often found in the want of correctness in the premises, than in the want of justness in the conclusions. The gentleman from New York (Mr. COLDEN) has said, that we find no definition of bankruptcy in the elementary treatises on the British law. Mr. B. thought otherwise. Blackstone, in his Commentaries, vol. 2, defines a bankrupt to be "a man who secretes himself, or does certain other acts tending to defraud his creditors." This is the definition of the person. We have only then to substitute the thing or subject-matter for the person, and we then have the definition of bankruptcy, which is the state or condition which the man is in, who is described by that definition. The error, then, of the gentleman, consists in this—that whereas the Constitution only describes the subject-matter to be legislated upon, they construe it as if it described the extent to which legislation upon that subject ought to go, and the provisions which it ought to contain. He would illustrate his meaning by stating some cases. The *habeas corpus*, too, is a creature of the British law. It is incorporated as a prominent security of civil liberty into our Constitutional code. But does it follow from hence that we have adopted it, subject to all the details and consequences that attend it in England? No, sir; if this were so, then because it is not issued

in England in a criminal case, it would follow that we, too, could not issue it in such a case. The same remarks apply to the laws of naturalization. By the British law, no man born in a foreign country, though naturalized, can be a member of the British Parliament, or the Privy Council. Although the Constitution uses the term naturalization, will any gentleman contend that we cannot vary from that provision in our laws on the same subject? Again—suppose the Constitution had given municipal powers to the General Government, and, among others, the power to legislate in relation to descents. We know that in England the doctrine of primogeniture prevails; and would it be contended that, in prescribing our rule of descents, we must include all that is contained in the British system, and that we, too, must give a preference to males over females, and amongst the males to the eldest born, instead of the more rational system of parcenery, which acknowledges no distinction either of sex or age? A definition, to be complete, must not only contain enough, but it must not contain too much. Are we not authorized, then, to say, that the Constitutional power to enact bankrupt laws does not necessarily include an extinguishment of the contract? That is no necessary ingredient in the system. As the case of *Sturges vs. Crowninshield* had been pressed by the advocates of the bill into their service, he would remind them that, in that very case, the Supreme Court strongly intimate the opinion that the extinguishment of the contract is not an essential attribute of a bankrupt law. If other proofs were wanting, they are supplied by the gentlemen (Messrs. HEMPHILL and COLDEN) whose historical research has disclosed the fact, that, until the reign of Queen Anne, no such thing was known as the exoneration of future acquisitions, or, in other words, an extinguishment of the debt. Yet, it is agreed on all hands that bankrupt laws existed from the time of Henry VIII.; and hence it follows, irresistibly, that an extinguishment of the debt forms no necessary part of a bankrupt law; and if it does not, it is begging the question to say that it was involved in the terms of the Constitution. It merely gives us power to pass laws in relation to the condition of men who secrete themselves, or do certain other acts tending to defraud their creditors; but what shall be the consequences of those acts; how far they shall affect the creditor, and how far they shall release the debtor, are questions which, for their decision, must depend upon those eternal principles of justice and morality which constitute the basis of society, and serve as unerring guides of legislation.

He said he would apply some of these principles as a test to this bill, for the purpose of showing how much it was at war with them. His first great objection, then, to the bill was, that it was in violation of every rule which had relation to contract. Legislative power is only the expression of the public will; it belongs to its province, therefore, to prescribe and enforce all our duties as men and citizens; it belongs to it, also, to prohibit the doing of every act which would be inju-

rious to the interest of society, and, amongst others, to forbid the making of contracts, which are considered of that character. But where a contract is of such a nature as not to be forbidden by law, no legislature ever can force the individual citizens to make it; it is emphatically a matter of free-will, of volition. Although every man in society may be prevented from making a contract, if the public good required it; yet, no man can be forced to make one with his fellow-citizen against his will. Hence it follows that the consent of the parties alone gives life and efficacy to a contract. The will of the parties, therefore, is the law of contract, (when it is lawful,) just as the will of the community, expressed by the legislature, is the law, in relation to our duties as men and citizens. And, as a law passed by the public will, cannot be repealed but by the same power which enacted it—so neither can a contract which contains the agreement of two or more individuals be rightfully repealed or extinguished but by the same power which created it; that is, the will or consent of the contracting parties. Yet this bill proposes to put it into the power of a certain portion of the bankrupt's creditors, not only without the consent, but even against the consent, of the rest, to discharge him from all future liability under his engagements; and thus, whilst nothing but the consent of the party creditor could have created the contract as it respected him, yet the consent of others may annihilate that contract, and thus destroy all the rights which he had acquired under it; for, let it be remembered, that, between two parties to a contract, if the one be under an obligation, the other must have a right—they being correlative in their nature. When, then, the obligation of a contract is impaired, the simple meaning is, that a right is taken away. Now, he supposed it would be admitted by all, that one person could not be bound by a contract made by another, without his authority or consent; and yet to release or extinguish a right acquired by contract, was itself just as much a contract as the one under which that right was acquired. To show the consequences of this, he would state a case: A merchant in New York buys the produce of a Virginia planter. He fails. His creditors principally reside around him. Three-fourths of them unite in signing a certificate, which releases him—from what? Their own debts? Ay—and from the debts of a man they never saw, and with whom and the debtor, in relation to them, there was no privity whatever! Is this justice? Are these the gifts of liberty and equal laws? No, sir; they are at war with every principle on which society is founded. But again, a contract was a mutual agreement; reciprocity was, therefore, of its very nature and essence; both parties ought to be bound, or neither; both parties ought to be equally bound, where they were equally capable of making a contract. But pass this bill, and the consequence is, that, whilst the one party, the farmer for example, is forever bound on his part, the merchant, on the other, is only bound to a particular extent. What is this, but to make the farmer the perpetual insurer

against every wind that blows; against every tempest which sweeps the bosom of the ocean; and insurer, as has been justly said, without the possibility of a premium for insurance. Suppose, instead of failing by adversity, the merchant should; by a prosperous commerce, acquire wealth incalculable; suppose that the produce which he purchased, at a rate ruinous to the seller, should, by some sudden vicissitude, (as has happened,) sell for twice, thrice, or four times what he gave for it, will any gentleman say that we ought or can take from the merchant any part of these extraordinary profits? It will not be pretended. He, said he could not comprehend the reciprocity of that contract in which the loss was all on one side, and the gain all upon the other. As judicial decisions had been referred to, he would refer the gentleman to the case of *Fletcher vs. Peck*, in which the Supreme Court recognise the doctrine, that even the whole community, after having expressed their will in the shape of a law, cannot, by a repeal of that law, if it were in its nature a contract, defeat vested rights under it. But he would bring the question home to gentlemen; he would ask them whether it would be, in their opinion, competent to Congress to repeal a law which it had passed in the shape of a contract?

Suppose, for a valuable consideration, we had granted to individuals by law 100,000 acres of land, and were then to vacate the grant. Or, suppose, that, having for the public service borrowed millions, at six and seven per cent. we were now to attempt to diminish the interest; and to make the case at once stronger and more analogous, suppose we were to refuse to pay any part of the principal, could we rightfully do it? He would take the answer to these questions as conclusive upon the inviolability of contract; for surely what the whole Government could not do, in relation to its own contract, it would neither be just or right for it to enable an individual to do in relation to his contract. I call upon gentlemen, said Mr. B., to show me a single example, save in the bankrupt system, amongst any civilized people in all Christendom, where, admitting the original validity of a contract, the law has, without the consent or neglect of the party to it, by any after circumstance, undertaken to destroy that validity. He believed that he might challenge the ingenuity and research of gentlemen. Some cases have been put which gentlemen seemed to think were analogous. Upon examination it will be found that there is no analogy between them. Let us examine them.

We have been told of the statutes of limitation—of the statutes of usury and gaming. In the first case it is obvious the party can never lose his right but for his own default in prosecuting within a reasonable time; in the other cases the law does not destroy contracts which were once recognised as obligatory; it declares that, for an inherent vice in the consideration, it never was a contract; in other words, it here interposes its restraining power, and prevents the making certain contracts, as being hurtful to society. The great and characteristic difference between the cases

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

consists in this: that, in the cases put, the parties, knowing, at the moment of their entering into such a contract, that it is void, acts upon his guard, and with a full knowledge parts with his equivalent; whereas in this case the law recognises the original validity of the contract, creates an obligation, and promises to enforce it. But, by after circumstances, neither to be foreseen nor controlled by the creditor, that obligation is annulled, and the law, having drawn from him his equivalent in consideration of one promised in return, now refuses the latter, whilst it cannot restore the former.

Mr. B. also contended that the principle of the bill was subversive of one of the fundamental principles of the social compact. In the formation of that compact there entered into it, as a matter of primary consideration, the protection of property. Will it be contended that debts are not property? What is United States' stock? What is stock of the banks? In one sense it is only the evidence of property. But in the paper and wax that contain that evidence there is an acknowledgment that the debtor holds, as the case may be, £100 of the creditor's money in his hands. Now, what is property but the exclusive right over any subject under the guarantee of the law? Withdraw that guarantee, and property in possession is just as valueless as property in action, as this is called.

Assuming, then, that debts are property, he contended that it was not within the competency of the Government to annul them itself, or to authorize other individuals at their will to do it. What is the right of the Government over the property of its citizens? Consult Vattel, and he will tell you that, in return for protection, every member of society owes a contribution in the shape of taxes; but this contribution is proportioned to his means, and all his fellow-citizens contribute in the same proportion. The same book will tell you that, by virtue of the *eminent domain*, the Government has a right, in case of urgent necessity, for the preservation of the State, to take all the property of any of its citizens: but justice, says he, demands that, in such cases, those citizens should be indemnified from the public Treasury, or by a fair contribution from their fellow-citizens. This principle, in itself so just as to be laid down by elementary writers, is enacted in so many words in the fifth amendment of the Constitution, which declares that private property shall not be taken for public use without just compensation. In this it resembles the repeated re-enactment of Magna Charta. If, then, debts were property; if annulling their obligation were depriving the creditor of his property, he presented to gentlemen this alternative: if you say that it is necessary for the public good to release the debtor, it must be done by indemnifying the creditor. If it be considered as individual benevolence to the debtor, charity must not be done at another's expense—and what we cannot take even for great public purposes, without compensation, *a fortiori* we cannot take in the indulgence of sympathy to private individuals.

The same amendment declares, that no person

shall be deprived of life, liberty, or property, without due process of law. He knew of no means of deprivation of property under this prohibition, except either in the payment of taxes, or a judgment rendered either for the crime or upon the contract of the party. This bankrupt clause will be better understood if gentlemen would read it in connexion with this amendment. Congress may pass laws on the subject of bankruptcies; but no person shall be deprived of property without due process of law: just as it would be necessary to read another text of the Constitution in connexion with an amendment. Congress may raise and support armies; but no soldier, in time of peace, shall be quartered in any house without the consent of the owner.

Mr. B. then adverted to the remaining point in the case, which was, the retrospective operation of the law. If there was any one sentiment in which all mankind had concurred it was in the sentiment of reprobation of such laws. He would not enter into a discussion of the nice discriminations that might be made in respect to the terms *ex post facto*; nor was he disposed to dispute whether it was confined to criminal or extended to civil laws. But he was satisfied that the principle was the same that governed both. The Constitution had given to Congress legislative power. What is legislative power? The province of the judge, it had been said, is *dicere non dare jus*; and the converse of the proposition is equally true, that it is the province of the Legislature *dare non dicere jus*. In other words, it belongs to the judicial department to determine what the law was and is—to the Legislature it belongs to say what it shall be. But here the order of things is reversed and confounded, which ought to be distinct. Mr. B. referred to a decision of Chief Justice Kent, of the State of New York, one of the most distinguished ornaments of the country—a judge with whom this country would lose nothing by comparison with the Holts and Mansfields of England; and who, in a case in the 7th Johnson, has exhibited a most profound and learned commentary on this question. The very horn-book of law will teach us that laws begin, and are to operate, *in futuro*. Such is the explicit declaration of Blackstone. What is law? It is defined to be “a rule of civil conduct prescribed by the supreme power in a State, commanding what is right, and prohibiting what is wrong.”

Can such a rule have relation back? Can it affect my anterior conduct? It would be a confusion of language—a solecism, to maintain it. It was opposed by every code of every nation; by the civil, the common, and the moral law, from the days of Bracton, down to the code of Napoleon; and that, not only in England, but even in that country, under the auspices of that man whom the world calls despot, who has ended his life as an unfortunate exile in St. Helena. All have yielded submission to the principle, and bowed to the supremacy of its power. Sir, laws are to operate upon men, upon moral agents, whose very nature and structure forbid a retrospective operation to them. Of the past, we know by history

and experience; of the future not even a moment is unveiled—and the state of things which now lies before us, presents our only rule of action; for violations of this rule only, are we punishable. To do otherwise, would be either to require of us the impossibility of foreknowledge, the attribute, not of man, but his creator, or to impose upon us the injustice of a penalty, for the want of that foreknowledge, which he who made us, has in his wisdom denied us. It has reflected dishonor on Caligula, and branded him as a tyrant, that he hung his laws high on pillars, where they could not be read by the people; but to punish for the violation of laws that did not exist, would be a refinement of tyranny that even Caligula would have blushed to acknowledge. Mr. B. explained his sentiments in relation to this part of the argument, by supposing the case that to-day, whilst the interest of money in the State of New York is seven per cent. a loan is made, and to-morrow it is reduced to five. Will any person say that the contract shall be affected by the law reducing the rate? Or suppose the converse of the proposition, that money is borrowed at five per cent., and a new law authorizes the taking of seven; can it be said that the borrower is bound by a premium that was not obligatory when the contract was made? And if by such an act, a small part of the contract cannot be diminished, will it be said that a law is valid which sinks both the interest and principal together? It would seem as if it were not enough to subvert justice, and morals, but logic too must be involved in the prostration; for here, by an inversion of all the rules of sound reasoning it is maintained that the lesser includes the greater, and that part is larger than the whole. Mr. B. adverted to the law of Virginia, in relation to ancient wills, and contended that not only the *lex loci*, but the *lex temporis* were absolute and valid. So clear and unquestionable was the principle, that if a contract is made in India, or Turkey, which is to be executed there, though the rate of interest may be twelve per cent., yet it is held to be good, and the laws of England will enforce it. This was founded upon the comity of nations, and the principles of natural law; it was founded upon the principle that man acts from expectation, that expectation supposes the continuance of the present state of things, that, therefore, neither the change of the law, in the one case, nor change of place in the other, shall affect the operation of a contract which was made under the expectation, by both parties, that it was to be executed, according to the law, both of the time and place of the contract. There was another idea on this subject. Suppose, during this session, you should enact a file of laws, and pack and seal them up and lay them away in the office of the Clerk, and then ask the people to observe and obey them. Even then their contents might escape by rumor, and would therefore be a case less strong than that which is proposed by the bill. The case supposed, would only deny publicity to a law which existed; this bill affects parties, by a law, not only not known but not in existence. But it is said by its advocates, that though the remedy is gone, yet the right remains; that

the debt subsists, and the bill only takes away the power to enforce the collection. This, Mr. B. contended, was only adding insult to the injury of the suffering creditor, to admit that he possesses the right, and yet withdraw from him the power to enforce it. We are told that although the law takes away all his legal remedy, yet it leaves the moral obligation; so that a new promise will be held a sufficient consideration to support the old one. And what is the consequence? An honest man will make that new promise, because he feels himself bound by the principles of morality; but the dishonest man will not, for he holds in equal contempt the opinions of mankind and the principles of moral justice. If it has any effect, it binds the honest man, while the dishonest one goes quiet. The first will not profit by the proposed exemption; the latter ought not to have it.

Mr. B. said, if he were right in those views, gentlemen might attempt by elaborate argument to vindicate this bill, but in vain; the great principles of right and wrong are so deeply graven on the human heart, that human legislation cannot obliterate them; as well might you attempt to enact that the Ethiopian should change his skin, or the Leopard his spots. Nor was there the necessity which gentlemen so strongly depicted, even if it were within our power, to interfere in this case. Sir, said he, there is now and then a Shylock to be found, who would call for the pound of flesh; but, thank God, though man is of a mixed character, yet he felt himself justified in saying, the good qualities greatly predominated; though there was in the human heart a principle of cold prudential calculation, on ordinary occasions, yet it had been the will of the Deity, to plant by its side, a pity, a sympathy for suffering, which acts by impulse, is instantaneous in its operation, and before prudence has half finished its calculation this feeling has impelled us to listen to the supplication of the unfortunate, and with the open hand of charity to mitigate his sufferings. This feeling may be safely trusted where there have been honesty and fairness; where these have been wanting, he repeated, there was no claim to relief. These views had led him to the conclusion that this bill ought not to pass; and he hoped, therefore, the motion to strike out the first section would prevail.

When Mr. B. had concluded—

Mr. SAWYER, of North Carolina, took the floor and made some general remarks on the opposite side, but owing to the lateness of the hour, and the want of time, to examine and discuss the more particular provisions of the bill, he moved that the Committee rise and report, which was agreed to—and, in the House, the Committee had leave to sit again.

SATURDAY, February 16.

Mr. TUCKER, of Virginia, presented a petition from sundry citizens of Lynchburg, in Virginia, praying that Congress may not pass a bankrupt law; the reading of which was called for by Mr. T., as he believed it expressed the sense of the great body of the people of Virginia; and it was

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

referred to the Committee of the Whole on that subject.

The resolution submitted yesterday by Mr. FLOYD, requesting of the President of the United States information whether any foreign Government has made claim to any part of the territory of the United States on the coast of the Pacific ocean, &c. was read for consideration.

Mr. FLOYD observed that he had made this motion in consequence of understanding that a copy of the Russian ukase on the subject of her dominions on the Pacific was in possession of our Government. The Russian Government laid claim, it appeared, to a considerable part of the territory on that coast which belonged to the United States, in addition to what she held without dispute. From a claim so enormous, it would seem that the Emperor of Russia had forgotten the cautious policy which had characterized him heretofore; and the claim was such a one as would be resisted by any country. He hoped the resolution would be agreed to.

The resolution was agreed to without objection.

Mr. COCKE said, the Committee on Military Affairs had obtained from the Paymaster General a statement of the saving which would be made in the expense of the military establishment by the passage of the bill now before the House for the better organization of the army—which statement, that all the members of the House might be put in possession of the information it contained, he moved to have printed. The motion was agreed to.

Mr. CANNON, after some remarks explanatory of his object, and to show that the papers which he had in view could be of no service to the Government if detained, and were necessary for the individuals, moved the following joint resolution; which was laid on the table for one day:

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of State be directed to deliver to such person or persons, or their legal representatives, any title papers or otherwise, that may have been filed or deposited in the office of the Board of Commissioners, which have been adjudged by said Board to be invalid, and on which no scrip has been issued, under the act entitled "An act providing for the indemnification of certain claimants of public land in Mississippi Territory," approved March 31st, 1814, whenever application shall be made, either by the person filing or depositing the same, or such person or persons or their legal representatives as aforesaid, or the person making the relinquishment required by said act; and in all cases where papers were filed in said office and no relinquishment made as required by said act, the said papers shall also be delivered, when applied for, to the person who filed them, or the person or persons holding the title to the same, or his or their legal representatives.

Mr. EUSTIS offered the following resolution; which was agreed to—ayes 58, noes 44:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of reducing the number and compensation of the corps of cadets, and whether it is expedient to make any alter-

ations in the laws and regulations for governing the Military Academy.

The SPEAKER laid before the House a letter from the Comptroller of the Treasury, transmitting a list of balances on the books of the Register, which have remained unsettled for more than three years prior to the 30th of September last; which was laid on the table and ordered to be printed.

THE BANKRUPT BILL.

The House then again went into Committee on the Bankrupt Bill.

Mr. SAWYER addressed the Chair as follows:

Mr. Chairman.—At the last session I advocated the bill now before you, and feeling the same friendly solicitude for it, and believing as urgent causes exist now as then in favor of its passage, I hope I may be excused for again trespassing on your attention for a short time, while I assign the reasons which influence me in the vote I shall give. It has already such able supporters, and has been so lengthily and ably discussed, that it would appear almost like presumption in me to expect your attention to anything I can add, and I can only apologize for the remarks which I shall offer in the extreme importance of the subject, and in the great necessity which urges its speedy adoption. I shall not attempt to amuse your curiosity by an unseasonable display of learning in tracing the antiquity and universality of bankrupt systems. Many gentlemen, no doubt, have been induced to bestow attention on this subject, by the great interest which it has excited, and have traced it to the time of the Romans, by whom it was borrowed from the Greeks, where it was in full operation in the earliest periods of their commerce. From them it has been handed down, and has progressed, through all civilized nations, with their trade, until it has become interwoven into the very essence of modern Governments. We should not be so much surprised at its being now proposed to us for adoption, as that we have done without it so long. If necessity compelled other nations to resort to this system for the support of commerce, there can be very little doubt that, at least, as imperious a necessity now calls upon us to pursue the same course. And unless the remedy be speedily applied, it will come too late. Wait another session, and the case will be desperate, if not incurable. Not only do the whole mercantile community suffer for the want of it, but it has reached the Government. Our revenues are sustaining a huge defalcation under the present anarchy of the commercial world. In some towns to the south, Norfolk in particular, I believe one-half of our custom-house debts will be lost; and, as those who are thus indebted are not allowed any further credit on importations, it has had the effect of paralyzing the whole trade of the place—not one single vessel, of any kind, loading there, for any foreign port, for the two first weeks in November, to my certain knowledge, when, in common periods of trade, our revenues from that port amount to near half a million a year. In my own quarter, it is true, we are almost entirely exempted from the

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

evils which require the application of this system. Should the bill pass, scarcely any of my constituents will be under the necessity of availing themselves of its provisions; I, therefore, have some right to have my vote considered as disinterested, and to be influenced entirely by the general policy of the measure. We can but sympathize in the distress of our neighbors, and we are ready to afford them the most generous aid through any measure that cannot compromise the national honor. Feeling, as we do, the honor of the nation staked, in continuing in force the present restrictive system—which bears peculiarly hard upon the mercantile community, as long as our Government considers it necessary to countervail the unfriendly policy of other nations—we are the more inclined to grant them the relief which this measure will extend to them, by which means they may be qualified to avail themselves of the first favorable change which our foreign relations may undergo. And, although this measure may be considered as calculated to benefit a particular class, my friends are not so invidious or selfish as to object to it on that account. They are willing to let this privilege be enjoyed exclusively by that portion of the community for whose condition it appears peculiarly adapted, and, satisfied with their own humble lot, they can but feel for the situation of their fellow-citizens elsewhere, and wish them every relief and advantage which is anticipated from this measure. But it is probably conceding too much to say that this system confers exclusive privileges upon the mercantile class. It may, with more propriety, be termed a restriction upon them, because it denies them the uncontrolled use and disposition of their fortunes or property, which they certainly possess at present; it denies them the privilege of consulting the interests of a few favorites, and of their own, at the expense of others; in fact, of doing just as they please, in spite of justice or equity. But here they will be compelled to treat them all alike. As in a state of nature, each individual is compelled to give up a portion of his personal rights for the safety of the rest, and the good order of the whole, so, in this anarchy and disorder of the commercial world, the merchant must surrender some of the powers which he possesses for the benefit of the class to which he belongs. It will have the effect of guarding the rights of the agricultural class, by placing their claims on an equal footing with others, instead of leaving them, as at present, to the partial and unfair disposition of the insolvent himself. The independent merchant, equally with the bankrupt, claim the advantages of this measure—the one for protection, the other for relief. No wonder, then, that we find public sentiment so general in favor of it. There can be no stronger reasons in favor of an uniform system of bankruptcy, than have grown out of the abuses which have so greatly multiplied in its absence. For not only are all insolvent laws discordant with each other, but they are declared nugatory, by the highest judicial authority of the nation, in their relations to citizens of other States, or in cases in which the United States are a party. And such practices

have prevailed among the merchants themselves, which, (although custom, strengthened by the neglect with which they have been treated by us, may have, in a measure, reconciled such to their conscience, who think they may retort upon others the evils which they have had to encounter themselves,) are, in reality, founded in fraud. To enumerate all those disingenuous courses would be both tedious and ungrateful. I will give a brief view of some of the most common. At present, a merchant stops payment of his own accord, and is not accountable to any person or tribunal for his conduct. He does not wait for the information of any creditor, but proceeds at his own will and pleasure to choose his assignees, with an avowed object of holding his effects for the benefit of his creditors. He divides them into three distinct classes.

All those who, from favor, affection, or interest, he is biased in favor of, he places in the first class, and provides, in his deed of assignment, that they shall be first paid. The second class is to be paid next, and the third last. But he exacts, as a previous condition, that they all join in a release to him, and those that refuse are not provided for in this arrangement. It generally happens that the first class, or preferred debts, swallow up the whole; seldom any allowance reaches the second class, never any the third; but, notwithstanding two-thirds of the creditors may not have had the least satisfaction, yet we frequently see the insolvent, by some secret and clandestine management between him and his trustees, employed as agent in his own concerns, and under an extended indulgence for adjusting the concern, carry on business with part of the very funds unjustly withheld from the unfavored, but equally deserving, class. When he fails, he may perhaps owe to some friends, for endorsements and other business, \$10,000, which are placed in the first class, and are ordered to be first paid: He owes to other merchants, for purchases, \$10,000 more, which are placed in the second class, and are to be paid next; and he owes to farmers and millers, for produce sold for their account, \$10,000 more, which are placed in the third class, and are to be paid last. He then makes over his property, his money, and accounts, to trustees, which produce, when sold, (and perhaps it is two years or more before this transaction is closed,) only \$10,000. This being previously agreed to be distributed to the creditors of the first class, barely satisfies them, and the other two classes get nothing. Should there be any among them who have not signed his discharge, and resort to legal redress, they will only add to their other losses the costs of the suit, for, as his property is already made over, no levy can be made, and if he takes his person, he can hold it no longer than it will require the defendant to go through certain forms of taking the oath, which, in some States, Virginia for one, is frequently done, and the debtor discharged in an hour after commitment. Can any state of things be possibly imagined, more relaxed, more unfair, more like legalized fraud, thus openly practised, daily, upon the honest creditor? Can any bankrupt system make matters worse? On the

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

contrary, as this system is expressly designed to take the fortune out of the hands of the bankrupt, upon the first well-founded alarm, and good assurance given that the charge is well grounded, and to place the management and disposition of it in the hands of disinterested persons, fairly chosen, each creditor will come in for an equal share of his effects, in proportion to the amount of his claim, if that be ever so small. Justice resumes her throne and gives satisfaction, if not full retribution, by her impartial administration. A fair and equal distribution is made by her, between that merchant who sold him his goods, the endorser who procured him his funds, and the farmer, who intrusted him with the fruits of his labor.

Mr. Chairman, I have examined carefully all the different sections of this bill, and, as far as my frail judgment may be trusted, I think it is admirably calculated to accomplish the great object it has in view. It guards well the rights of the creditor, and at the same time uses the unfortunate debtor with every possible lenity; in fact, it appeals more to his honesty than to his fears, and shows him every possible motive to make an early, a fair, and full disclosure of his situation. Let us examine, briefly, some of its most prominent features.

The first section of the bill clearly defines and specifies all the usual acts by which any merchant or trader can commit bankruptcy. It excepts from its operation farmers, mechanics—in fact all persons who are not exposed to the risks, the losses, the vicissitudes, to which the adventurous merchant who is in the habit of dealing on credit, is peculiarly liable. It requires that the application for a commission of bankruptcy should be made within six months after the time within which the act of bankruptcy was committed. I must here acknowledge the force of the objections of the gentleman from Virginia (Mr. ARCHER) that the time is too short. And as the bill contemplates a retrospective view, and has been strongly combatted on that ground, I think it ought to go back far enough to reach the greater number of cases which occurred at the great period of our embarrassments, owing to the stagnation of trade, and the curtailment of the banks, which was five years since.

As at present limited, it would embrace very few cases, as the great mischief was suffered, and the great agony over, long since. And are none of those unfortunate persons intended to be relieved? I trust they will be. I however do not pretend to arraign the reasons which induced the committee to limit it to six months. They may have some satisfactory ones, unknown to us; but if they have not, I hope they will see the necessity of extending its retrospective operation further back. At the same time, I should not hope to conciliate the gentleman from Virginia any more by that course.

The second section makes it the duty of the President to appoint in each judicial district as many general commissioners of bankruptcy as may be required; and upon petition in writing to the judge of the Federal Court, against the person who has committed any act of bankruptcy, by any

one creditor, or by a company or firm, whose claim shall amount to one thousand dollars, or by two creditors whose debt shall amount to one thousand five hundred dollars, or by any greater number whose debt shall amount to two thousand dollars,—he shall appoint any three of the general commissioners to be commissioners in the case of the particular bankrupt petitioned against. But previous to issuing the commission the judge shall require proof by oath or affirmation of the truth of the debt from the applicant; and he is likewise required to give bond and security to make good the act of bankruptcy, as well as the amount of his claim. Upon failure, in either case, the party aggrieved may have his remedy against him on the bond thus given. Here is every security afforded against groundless informations; and it is intended to prevent merchants from being vexatiously harassed or injured in their good name by a malicious rival or designing enemy, under a pretence of legal redress. The amount of the claim is also made of sufficient magnitude to render its loss of serious consequence to the claimant, while it supposes the trader has ventured far enough in the field of responsibility; at the same time it will not permit him to be harassed on any trivial occasion, in which the risk run by the creditor is not commensurate to the trouble, embarrassment, and derangement, in the operations of the debtor, which the subjecting him to this great and expensive measure would occasion.

The fourth section compels the commissioners to make oath to act faithfully, impartially, and honestly, and to execute their trust without favor or affection, prejudice or malice; and to proceed without delay to investigate the charge, and upon satisfactory evidence to declare the party a bankrupt. But before the examination of this point the party accused shall have due notice in writing, and is allowed (if he require it) a jury to try the fact or facts of his alleged bankruptcy, in presence of the judge granting the commission; and it shall be made appear, after a full and fair trial, that the party has actually become a bankrupt, within the description in the first section, before he shall be declared one.

The fifth section empowers the commissioners, after they have declared the party a bankrupt, to cause him to be apprehended and brought before them, wherever to be found in the United States, for examination. They are also empowered to have the doors of the bankrupt broken open, upon well-grounded belief that he purposely conceals himself, as well as the doors of any other person, in whose house he shall be fraudulently concealed—it being all-important to the fulfilment of their duties and the furtherance of justice to enforce the attendance of the absconding debtor, in order that he should be accessible to the laws, and that his affairs might be thoroughly investigated. Unless some such compulsory process be allowed the commissioners as prevail generally in courts in criminal accusations, the whole proceedings might be frustrated in their very commencement by the wilful and obstinate opposition of one man. It must be evident then that it is highly necessary

the commissioners should have full power to obtain possession of him, by every practicable means, for which purpose this section is indispensable. But when that end is accomplished the law is satisfied, though it would be justified in going still further, by denouncing some punishment for this contempt of the authority of the court of commissioners against the principal, and his aiders and abettors.

The sixth section makes it the duty of the commissioners, immediately after declaring the party a bankrupt, to take into their possession all his estate, real and personal, of every nature and description, to which he may be entitled, except his necessary wearing apparel, and that of his wife and children, their beds and bedding, and all his deeds, books, and papers, and cause the same to be safely kept, until assignees shall be appointed.

By the seventh section, they are to give due public notice, and to appoint some convenient time and place for the creditors to meet and choose assignees of the bankrupt's estate, and at the said meeting the creditors are allowed to prove their debts. At which time and place the commissioners shall deliver the effects, and the estate of the bankrupt, to such persons as a majority of the creditors, in value, according to the several debts then proved, shall choose.

The ninth section authorizes the major part of the creditors, at any time previous to the closing the accounts, to remove all or any of the assignees first chosen, and choose others in their stead, and such assignee must deliver to his successor all the estate and effects of the bankrupt, that may have come into his hands, and upon failure or neglect, for the space of ten days, after notice, to forfeit a sum not exceeding five thousand dollars, and be liable for the property detained. The reason of this section must be obvious. It is intended to prevent the assignee from enjoying an opportunity to speculate upon the funds vested in his hands for the benefit of the creditors, and as he is the mere creature of the creditors, it is no more than their inherent right to remove him, whenever he may betray a disposition to abuse his trust, by appropriating the funds to his own use, by gross misconduct, neglect, or inability to perform his duty.

The eleventh and twelfth sections make good and valid, to all intents and purposes, the assignment of the commissioners of the bankrupt's estate against the bankrupt himself, or any person claiming under him, by an act done at the time, or subsequent to the committing the act of bankruptcy, and they are empowered to make good and lawful conveyance by deed to the assignees, of all lands or other real estate of the bankrupt.

The thirteenth section vests the right in the commissioners to make over to the assignees all the debts due the bankrupt, and enables the assignees to take all legal remedies to recover them.

The fifteenth section authorizes the commissioners, upon due information given, of any property or debts of the bankrupt, being in possession of any other person, to summon such person before them or the Federal judge of the district, and to examine them on oath respecting their know-

ledge of any such goods, property, or debts, and, upon their refusal to give the information required, they are to be committed until they shall; and, moreover, forfeit double the amount of the goods or property thus concealed, for the use of the creditors.

This section very wisely provides against the too common danger of a collusive understanding between the bankrupt and his friend. It is the common practice, under our insolvent laws, and may occur under any system, unless severely prohibited, for the person about to fail to convey a large amount of his property in secret trust, with an expectation that, after he shall have obtained his discharge, to again reduce it into possession under a fictitious sale. As it is an attempt, and one of easy perpetration, to swindle the honest creditor, it ought not to be considered as unjust or oppressive to compel the person who thus makes himself the voluntary instrument of such fraud, at least to discover the imposture, or, when proved on him, to submit to a two-fold forfeiture of the articles thus embezzled. With the same view, to guard against the fraudulent concealment of the bankrupt's effects, or any spurious claim of debt, the seventeenth section subjects the person guilty of such an offence to a forfeiture of double the value, for the benefit of the creditors.

The eighteenth section declares null and void all conveyances made by a bankrupt, prior to his becoming such, to any of his children, or other persons, of any of his lands, or goods, or any transfer of debts or demands, into other people's names, with intent to defraud his creditors; and enables the commissioners to assign the same, in as effectual a manner as if no such conveyance had been made. The importance of this provision is sufficiently obvious. If such conveyances were permitted, very little property would come to the hands of the trustees, as the temptation to provide for one's offspring is so great, few people, upon the eve of failure, could withstand it, and it is proper therefore absolutely to forbid every formal attempt to prevent the whole of the bankrupt's estate from taking a proper and fair direction, for the benefit of all his creditors alike.

The nineteenth section is one of the most essential in the whole bill. It enjoins on bankrupts, under a penalty of from one to ten years imprisonment, and a denial of the benefits of the act, within forty-two days public notice thereof, or in writing left at his usual residence, to surrender themselves to the commissioners, and submit to an examination on oath, from time to time, and to disclose and discover all their effects, and all their transactions, relative to their conveyance, or disposition, together with all the papers, accounts, and books, concerning the business in which they may have been engaged, except such as relate to the ordinary expenses of their family, and, on such examination, to assign and make over, to the commissioners, all their property, real and personal, with their debts and accounts, for the benefit of their creditors. Although the bill is here necessarily particular in its requisitions upon the bankrupt, for a full and candid exposition of his affairs, we

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

cannot but admire the tone of moderation, humanity, and delicacy, which it holds throughout this most interesting section, and in which it stands eminently conspicuous over all other systems. In England, a man's own wife and children are permitted to be examined, and forced to give evidence on all those various points of domestic inquiry, although, upon their proof of his prevarication, or wilful suppression of any material fact or circumstance, their husband or father is subjected to the punishment of death. In this bill, none of his family are required to give evidence against him, and although he may be convicted of a wilful and fraudulent bankruptcy, the party, instead of being capitally punished, is subject to imprisonment only, not exceeding ten years. The twenty-second section merely rendering him still further liable to be indicted for perjury, and a similar punishment upon proof of that crime.

The twentieth section requires the commissioners to appoint three several meetings of the bankrupt to surrender and conform to what shall be required of him, within forty-two days from the date of the commission.

The twenty-first section authorizes them to empower any person or officer to break open, in the day time, the houses or doors of the bankrupt, as well as his trunks or desks, containing any of his property, books, or papers.

These sections may appear to exact some hard and disagreeable conditions at the hands of the bankrupt, but as it is absolutely necessary they should be performed for the security of the creditor, as well as for a fair estimate of the character of the bankrupt himself, no honest one would withhold a most ready and cheerful compliance with them. But many of the sections which follow, particularly the next, address him in much more gentle terms, and extend to him every privilege and indulgence the occasion would justify.

The twenty-third section allows the bankrupt, who shall have surrendered, at all reasonable times before the expiration of the said forty-two days, to inspect his books and writings, and to bring as many as two persons with him, to assist in making extracts and copies to enable him to make a full discovery of his or her effects, with privilege from arrest, in coming to surrender, at any time or times within the forty-two days.

The twenty-fourth section subjects to fine, not exceeding one thousand dollars, and imprisonment, not exceeding twelve months, any person who shall knowingly conceal any bankrupt after his being summoned to appear, or who shall assist the bankrupt in so doing.

The twenty-fifth section allows five per cent. to any person who shall discover any of the bankrupt's property to the commissioners, after examination, and such further reward as they may think proper.

The twenty-eighth section enacts that no bankrupt, after commission issued, shall pay to the person suing out the same, or give to him any goods or security for his debt, but in so doing shall be considered as having committed a new act of bankruptcy, and a new commission may be

issued accordingly, and the persons receiving such composition shall forfeit the same, together with the whole of their debt. I think this section would afford a more complete remedy for the evil of an apprehended secret compromise, between the bankrupt and the creditor who first detected his commission of the act, by subjecting him to a loss of the amount paid, as well as the debt, although he might not proceed as far as the suing out a commission, but only suppressed the fact from the knowledge of the other creditors, and accepted a private accommodation. As it stands, however, it is calculated to do a great deal of good, for, on the first intimation of a discovery, a dishonest debtor might be induced to hush up, or suppress the circumstance of his failure, by offering full satisfaction to the creditor who might first detect him in the act of committing bankruptcy. To prevent any such undue advantage, and to bring about an early development and settlement of his concerns, this section is properly inserted, in order to compel any one creditor to act for the benefit of the whole.

The twenty-ninth section requires the assignees, after four months, and within twelve months of the issuing of the commission, to give thirty days notice of the time and place, they and the commissioners intend to meet, in order to make a distribution of the bankrupt's estate and effects, at which time, the creditors who have not proved their debts shall be at liberty to prove them; and at the said meeting the assignee shall produce fair and correct accounts of his receipts and payments, concerning the estate of the bankrupt placed in his hands, retaining such allowances for commission and expenses as shall be agreed on, when the commissioners shall forthwith order a distribution among the creditors of the net proceeds, in proportion to their respective debts; the assignee taking receipts from each creditor, in a book to be kept for that purpose, for the amount or rate thus paid him.

The 30th section appoints in the same manner a second dividend within eighteen months, of the bankrupt's effects, in case the whole was not divided upon the first meeting, and requires the assignee to give due public notice of the time and place the commissioners intend to meet, to make the said second dividend, at which time and place creditors are allowed to come in and prove their debts, if they have not previously done so. And the assignees shall then produce, on oath, their accounts of the bankrupt's estate; what may appear to remain in their hands, shall, in like manner, by the commissioners, be forthwith divided among the creditors in proportion to their several debts; which second division shall be final, unless any suit be depending, or any property or inheritance of the bankrupt, afterwards come into the hands of the assignees, in which case they shall, as soon as may be, convert the same into money, and within two months afterwards, by like order of the commissioners, divide the same among the bankrupt's creditors, as shall have furnished due proofs of their debts under the commission. I advert to these two sections, for the purpose of

showing, that the objections to the act of 1800, and the practice arising under it, on account of the length of time before a final distribution was made among the creditors, do not apply to this bill. The 29th section, requiring the dividend to be made within twelve, and the 30th section, a final one within eighteen months, which is as short a time as it could be done in, consistent with that justice due to those creditors who may not have had an opportunity to be present and prove their claims at the first and second meetings. If, therefore, any delay should thereafter arise, it cannot be the fault of this bill, but must be owing to the "law's delay," which is proverbial.

The 32d and 33d sections require the assignees to keep distinct books of account, of the money or effects of the bankrupt, which shall be of free access to every creditor who shall have proved his account, and requires the bankrupt, if not in custody, to attend any court of record, when he may be required for his examination, or such other business as the assignees shall deem necessary, for which he shall be allowed three dollars per day.

The 34th section enacts, that all and every bankrupt who shall surrender himself to the commissioners, and conform in all things as the act directs, shall be allowed five per cent. out of the net produce of all the estate that shall be recovered and received, which shall be paid to him by the assignee, in case the net proceeds of the estate shall allow the creditors fifty per cent. of their claim, and so as that the said allowance shall not exceed five hundred dollars. But if the net proceeds of the bankrupt's estate allow the creditors a dividend of seventy-five per cent., then the bankrupt is to receive ten per cent. on the same, so that the amount shall not exceed eight hundred dollars. And if the net amount of the bankrupt's estate does not yield fifty per cent., the bankrupt is not allowed over three per cent., or more than three hundred dollars. It also provides that if a second commission of bankruptcy issue against the same person, his body only shall be discharged from arrest, and his future property or effects shall be liable to the creditors, unless his estate shall be sufficient to pay his creditors seventy-five per cent. on their debts. And if a commission be issued a third time against the same person, then the bankrupt shall not receive any discharge, but his goods and estate shall be liable to his creditors until they are paid the full amount.

It provides further, that no person shall be entitled to a discharge under this act, who shall not have been a regular merchant or trader, within the intent and meaning of it; but shall become such, merely with a view to become a bankrupt, and to be discharged under the provisions of the act, from their debts not contracted by them as regular bona fide merchants, traders, or insurers.

We perceive, in this part of the bill, a strong motive held out to the bankrupt to make an early discovery of his situation, and to submit to the conditions required of him, by allowing him a sum out of his effects, in proportion to the amount which it will pay his creditors. And, on the contrary, by not allowing him scarcely any part of

it, should it fall short of netting them fifty per cent. on the amount of their claims. He will, therefore, take care how he proceeds, after committing an act of bankruptcy, to waste and exhaust his fortunes by any fruitless or idle experiments, or longer continuance in business, under such circumstances. And the bill also very properly attaches some degree of blame upon any second and third failure, which can hardly be conceived to occur without some misconduct on the part of the bankrupt, and not the result of mere misfortune or accident. As a kind of punishment to such persons, though of a negative kind, it denies him a repetition of the advantages of a discharge and other allowances extended to him in the first instance. As he therefore finds that there is nothing to be made by failing, should he even place it upon a footing of calculation, he will be in no danger of doing it clandestinely. If there be any defect in this clause, it must arise from the smallness of the provision allowed the bankrupt, out of the net proceeds of his estate. A stronger appeal to his interest should be made, as is done by the English statute, than five per cent. on the reimbursement of fifty per cent. or of ten per cent. on the payment of seventy-five per cent., on the amount due by him, to induce him, for the sake of the reward, to make an early and full exposition of his affairs. Neither can five hundred dollars or eight hundred dollars be much of an object with a merchant who had been engaged in extensive business, either for the support of his family, or as a new capital to recommence business upon. It is true, the assignees or commissioners may allow more, but I think it should be imperative on them. However, the principle is a good one, for, in justice, the debtor could not demand any thing.

A detailed examination necessarily drawing me into some length, and the process being rather dry and tedious, I propose to take a succinct review of a few of the most important remaining sections. The next one, to wit, the 35th, is the grand desideratum of bankruptcy, as it contains the discharge of the bankrupt, by which he becomes a new man, and may be said to be restored to commercial life. It enacts that, upon any person's having been proved a bankrupt, and having a certificate, as the act provides, he shall be discharged from all debts, covenants, contracts, and other engagements and demands whatever, by the act made provable under the commission. His certificate of discharge is to be obtained from one of the judges, district or circuit, upon a certificate returned to him by the commissioners, that the bankrupt hath made a full discovery of his estate and effects, and conformed to the directions of the act, and upon that of two-thirds of the creditors, who shall have proved their debts under the commission (and none for a less amount than fifty dollars) signing the said certificate and certified by the commissioners, and upon the bankrupt's confirming the whole, by making oath, in writing, before the judge, that he hath made a full and fair discovery of all his estate and effects, and that the certificate of the commissioners and consent of the creditors was obtained without fraud.

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

The principal attack has been made at this point of the bill by objecting that it dissolves the obligations of contracts.

In answer to that, I would first require to be informed if the nature of contracts are any more solid now? Are contracts more binding under the present order of things? Do the State insolvent laws afford a better moral cement for confirming inviolably every bargain between man and man than this bill? On the contrary, is it not the universal complaint that they are constantly made use of by debtors without the consent or knowledge of creditors, as a means of annihilating all obligations between them? We find, indeed, these laws in some of the States lending their aid to discharge their citizens of the claims which citizens of other States may have against them, by denying to the creditor those means of redress in the State where the debtor resides, which existed in the State where the contract was entered into. As New York with Massachusetts for instance. In the latter State, the creditor can commit his debtor to prison; but if a citizen of New York becomes indebted to him, or if his debtor flies to that State, and takes the benefit of the act, the creditor is not allowed to touch his body, although he may have his bond in his pocket uncanceled. But, in reality, a contract is as apt to be dissolved in fact by the inability of the party to discharge it, as well as by the determination of a dishonest debtor not to comply with it, as if it were declared so in form. If the creditor sees no hopes in the ability or honest disposition of the debtor to discharge it, I fancy he would have but little inclination to question our right to modify it in the manner we propose. He will hardly be disposed to quarrel about the shadow when the substance is gone. This act, so far from dissolving the obligations of contracts, professes expressly to enforce their fulfilment to the utmost extent of the debtor's means; and that ought to satisfy any reasonable man. I am sure no creditor will feel disposed to complain for any share which this act may have of lessening the force or validity of his claims; and, if the parties concerned raise no such objection, it is hardly worth our while to do it. But are we not in the daily habit of dissolving the obligations of contracts? How many acts have we passed at every session, discharging persons from imprisonment for debts due the United States, when but little if any of the amount has been paid, merely upon the petition of the party, setting forth his inability to discharge the debt? And, if we can dissolve them where the United States are a party, I cannot see why we may not, if equally proper, exercise the same right between individuals. For this bill does not positively dissolve the obligations of contracts; it merely allows a majority of two-thirds of the creditors to do so, if they see proper.

The gentleman from Virginia, (Mr. STEVENSON,) in defining the meaning of the term bankruptcy, has referred to Blackstone for the purpose of showing that, according to his meaning of it, it does not extend as far as this bill proposes; that it does not lead, necessarily, to the dissolution of

contracts. And, by way of fortifying that ground, the gentleman has cited the case of *Sturges vs. Crowninshield*, where Chief Justice Marshall, in delivering the opinion of the Supreme Court, observes: "But, if an act of Congress should discharge the person of the bankrupt, and leave his future acquisitions liable to his creditors, we should feel much hesitation in saying that this was an insolvent, and not a bankrupt law." But the judge does not decide, nor do I presume the gentleman meant to infer that, if Congress were to proceed a step further, and pass an act absolving the property or future acquisitions of the bankrupt, as well as his person, that that would not also be a bankrupt law; and that Congress would not equally have the power. The judge proceeds to state, that all "must perceive that the line of separation must be, in a great measure, arbitrary, and that the insertion of the 61st section of the bankrupt law of 1800 indicates an opinion that insolvent laws might be considered as a branch of the bankrupt system, to be repealed or annulled by an act establishing that system, although not within its purview." By a contract a creditor has a two-fold claim on the debtor; one as to his person, and the other as to his property. Now, if Congress, as appears to be conceded on all hands, has the power to dissolve the first branch of it, what prevents them from possessing it over the other? I cannot see how you can sever it; it is indivisible, and arises from one source—the single delegation of power under the Constitution to establish a uniform system of bankruptcy. The framers of the Constitution took the word bankruptcy as they found it. It certainly carried with it in other countries, particularly England, the idea of a discharge, under given circumstances, as well of the property as of the person of the debtor. No qualification was annexed to it, and we must receive it with that latitude of construction which then prevailed, otherwise, it would be only half a system. It has been so viewed by us, by legislative interpretation and judicial sanction, in 1800. It is too late now to raise Constitutional objections to this system. It would be just about as timely and reasonable to dispute the power of Congress to erect lighthouses, or to raise navies for the support of trade, by stating that no express power was delegated by Congress on that subject. But it is an incidental power, necessarily belonging to the main power given to Congress to regulate commerce. So it is equally within their province, and has been so acknowledged by practice under the act of 1800, to dissolve the obligations of contracts, retrospectively as well as prospectively, if such consequences must necessarily follow "the establishment of a uniform system of bankruptcy." It is as much a violation of the Constitution to withhold a necessary power, expressly granted to effect a certain object, and thus defeat its fulfilment, as it would be to usurp an authority that was denied. What sort of a system would that be which went merely to discharge the person of the debtor? A merely general insolvent system, and not a bankrupt system, such as existed at the time this phra-

seology was used in every nation of Europe. In England, from which country the gentleman acknowledges we derive our system, the practice certainly was to discharge the bankrupt from all claims provable under the commission. And can it be supposed that the convention, in using these broad terms found in the Constitution, meant that we should go only half the extent with other commercial powers? It would have been poorly worth their while to have given such an inconsiderable, if not incidental power, the solemnity of a Constitutional sanction.

In meeting evils of this nature, it is certainly consistent with the freest nation on earth to lodge plenary power somewhere. It is the essence of legislative power to be supreme over all subjects within its scope, or evils might exist without an adequate remedy. But although I admit, with the gentleman, that that Government is not similar to ours, and that she would not be a model to copy our institutions from, yet, on strictly commercial subjects, where politics do not interfere, surely it is as wise to profit by her long experience on that head as on many others. But Holland, like us, was a Republic, and she had her bankrupt system.

The gentleman stated that the convention, in investing Congress with this power, probably meant that it should be exercised only where States, by their regulations, might protect frauds by their citizens against citizens of other States. Now that very case has occurred; and it happens, rather unfortunately for the gentleman, that his mentioning the circumstance causes us to look naturally to the State from whence he comes, as an illustration of it. Is it not a fact that a citizen of Virginia may contract a debt in New York, by purchasing goods or borrowing money, return home, invest the property in lands, which by the laws of that State are not liable for debts, and thus evade their payment?

But similar examples exist in other States. I have cited that between New York and Massachusetts. Contradictory and conflicting regulations exist between most of the rest on this subject; so that, according to the gentleman's own grounds, it is high time Congress should interfere.

But the gentleman wishes to deduce an argument from the silence of the State conventions on this clause when the Constitution was submitted to them for ratification, against the admission of the power contended for, or they would have raised objections. Is it not as rational to account for their silence by supposing they could find none? That the meaning of the term bankruptcy was so well understood, and the propriety of the trust being confided to those to whom they had granted the power to regulate commerce so obvious, there was no ground for objection?

The gentleman then read the opinions of seven men, (wise men, very likely,) in England, unfavorable to the policy or expediency of the bankrupt law. To which I beg leave to answer, in but few words, that, notwithstanding what they have said, the system remains unrepealed. With all deference to that gentleman's judgment, I can

but think his sympathy unduly excited, and his talents in some disagree misapplied; in selecting as fit subjects the fraudulent bankrupt, the absconding debtor, the man who would purposely conceal himself in the house of a relation, and even make his own daughter subservient to his designs of evading payment to his suffering creditors.

I think he might have found an equally fruitful theme in depicting the sufferings of the creditor's family, where he might also have found among them an innocent daughter, pining in want, and cursing the author of her wretchedness, who has become a fugitive from that justice to which she would be willing to drag him with her very hands. An asylum? No place, not the altar of Jehovah himself, ought to be a sanctuary for fraud. Are such characters as these deserving that pathos, that warm sensibility, which the gentleman so feelingly displayed? I humbly think not. Before he concluded, the gentleman raised such a rapid succession of objections against the bill, that I find it out of my power to answer them, and should have been almost tempted, had I possessed the power of Richard, to have exclaimed, like him, for "a flourish of trumpets, a peal of drums, to drown the unwelcome sounds." But I forgive all the gentleman's opposition to the bill, from one declaration, which originated in the true source of magnanimity—that, if he failed in his motion to strike out the first section, he would join its friends in pure sincerity, and endeavor to make it as perfect as possible. We frankly take him at his offer, and I only wish we may have occasion for the gentleman's friendly co-operation. But I begin to doubt whether we shall ever have that good fortune.

Mr. Chairman, I feel as much painful anxiety and solicitude over the fate of this bill as I should over that of an only child, after the physician had pronounced it to be in a critical state. But, whether we succeed or not, one gentleman at least (Mr. SERGEANT) will be entitled to all the gratitude of a large class of our suffering fellow-citizens, for the noble stand he has made in their behalf.

The 37th section provides against fraud and collusion between the bankrupt and any pretended creditor, by subjecting the bankrupt, for permitting such claim to be introduced, without objecting to it, to the loss of any per centage on the amount of his effects, as well as his certificate of discharge; nor will it allow him to enjoy any of the provisions of the act, if he has lost fifty dollars at one time, or three hundred dollars in the whole, within twelve months before becoming a bankrupt, by any species of gaming.

I can find nothing to add, by way of comment, on the plain justice of this section, except an expression of my admiration at the extreme circumspection and particular care which the bill discovers against every species of fraud. How it is possible that it can encourage fraud, when it seems to close every avenue to it, I cannot conceive. It professes no sympathy to any other class of sufferers than the strictly unfortunate. It leaves to those who have become the victims of their own vice and folly to gather their bitter fruits.

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

The 39th section allows all persons who have given credit, or taken securities of the bankrupt, payable at a future day, although they may become bankrupts before the debt becomes due, to be admitted to prove their debts, and to receive a like allowance with the other creditors. Two reasons may be urged for this provision—1st. That otherwise a debtor might lose his debt from the mere circumstance of his having allowed the bankrupt a credit; and, 2dly. It would be the means of subjecting the bankrupt to the expense and trouble of another commission of bankruptcy, unless it were placed on a footing with the other claims, and perhaps the stock or effects of the bankrupt may have been increased to that amount by the transaction for which this credit was given; and it would be unjust to deprive the creditor of his share of the dividend.

I advert next to the 40th and 41st sections, on account of the factitious importance which has been extended to them from the circumstance of the first subjecting the jailer to a penalty of \$3,000 for negligently or wilfully suffering the bankrupt to escape, or to go without the walls of the prison; and the second, subjecting him to damages as for a wilful escape, if the sight of the bankrupt, being legally required by a creditor, be refused by the jailer.

In this case an attempt has been made by the gentleman from Virginia (Mr. SMYTH) to excite our compassion towards the jailer, as well on account of the alleged disproportion of the punishment to the offence of merely letting the bankrupt pass without the door of the prison, as on account of the United States subjecting the jailer, in common with the State magistrates, to the performance of duties not strictly within their line. This penalty on the jailer is called rapacity. But, if the gentleman will interpret the act according to the most critical rule, he will find that it is to be construed as a wilful and criminal negligence on the part of the jailer, in suffering him to pass without the door of the prison. The *quo animo*, or disposition of the mind, is to be taken into consideration, adjudging the offence. The bill states that, if the jailer negligently or wilfully suffers the bankrupt to escape, or to go without the walls of the prison, that is, connecting the sentence with the preceding, it means, as there expressed, wilfully and negligently; of course, unless such negligence or wilfulness be made appear, the offence would not be constituted and no penalty would be forfeited. In the next place, I trust it will be no harm for the commissioners to leave the bankrupt where they found him, in the common jail, and continuing him under the care of the jailer, and where any creditor may have committed him, by an action of debt out of a State court, previous to a commission of bankruptcy. No right is arrogated, no duty is imposed, or hardship exacted, on the part of the jailer that he was not previously subjected to. He is liable at common law for damages, upon a wilful or negligent escape of the debtor. But to talk of the hardship or tyranny on the part of the jailer, for compelling him to receive bankrupts, would be enough to

force a smile from the "gentle provost" himself. Nothing would give him more pleasure, as it would be adding to his business, and he would be willing enough to encounter the risks for the sake of the advantages of receiving bankrupts. You may as well talk of oppressing a ship owner, by giving his vessel freight, a lawyer, by giving him suits, or a doctor, by adding to the number of his patients. Nor does the act require any extraordinary services from State judges or magistrates. The thirty-eighth section merely allows them, upon an application by a bankrupt, having a certificate of discharge, upon being taken in execution, or detained in prison, on any judgment obtained prior to the allowance of his certificate, for such judge or justice having the power to grant him a habeas corpus, and upon such bankrupt then and there producing his regular discharge, to order the sheriff or jailer to discharge him forthwith. It appears here, that the object is merely the promoting the interests of humanity that this solitary act is required at the hands of the State judge, or magistrate, otherwise the bankrupt might lay several months, until the next session of the federal, district, or circuit court, though legally entitled to his discharge. This is no foreign or extraneous duty either, for it expressly refers to a preceding judgment, on which the bankrupt may be committed in execution, and perhaps rendered by the very court itself. But the State courts are called on, in other instances, to assist in carrying the laws of the Union into effect, in the case of invalid and revolutionary pensioners for example. This bill is calculated to relieve the State tribunals of a vast load of business, arising from the multiplicity of suits against insolvents, and their proceedings preparatory to taking the benefit of insolvencies, by transferring the cognizance of such cases to the tribunals of the Commissioners and Federal Judges. There are many other sections in the bill, amounting to sixty-four, but as they are principally calculated to fill up the great outlines of this system, and to make it complete in all its parts, I shall not proceed to notice them more, as I have already been unavoidably detained a considerable time in examining in detail the more important ones. Among them, however, I may add, is one reserving the right of preference in the United States over all other debts, and limiting the act to three years' operation. Nor can the act interfere with the greater portion of insolvent cases, as it proposes to reach no case under a thousand dollars in amount, and most cases of insolvency being for less amount.

In this analytical examination of the bankrupt bill, I trust I have been guided by the true spirit of criticism, although I may have found more to commend than to blame, contrary to those who subject it to such an ordeal for the purposes of finding fault, which is called hypercritical. Whether we consider the peculiar adaptation of the parts to the whole, or the relation and happy adjustment of the whole to its parts, we must confess it is the offspring of sound judgment, patient labor, and improved experience. I trust these recommendations will be duly weighed by every

gentleman who may be induced to hazard an amendment or propose an alteration.

The success of such a measure will be hailed as a fortunate epoch in our annals—for we have arrived at a crisis in our affairs that demands the speedy and full operation of such a system. Under our present systems I have detailed some of the existing evils. The honest and dishonest trader is on an equal footing. The one finds no protection, the other fears no punishment. And, as there is no incentive to virtue, and every encouragement to vice which can arise from successful impunity, a constant corruption of morals is progressing, until nearly all confidence between man and man is destroyed, and credit at an end. The most dreadful catastrophe may be apprehended, and, unless this only remedy be speedily applied, we bid fair to rival the latter days of Rome for degeneracy. No government can be pure or stable, nor can public liberty be secure, when that only sure foundation, popular virtue, is undermined. Then, does it not become a transcendent duty in the legislators of this nation, in order to oppose, in proper season, a barrier against the future progress of evils which have proved the downfall of other Governments, and which, originating in the same moral causes, may be equally apprehended by ours, to erect a tribunal that shall decide between the honesty and dishonesty of debtors; to give due encouragement to the one, to strip the other of his ill-gotten wealth, that shall cleanse and reopen the choked-up channels of credit, re-establish confidence and order at home, and respectability abroad.

The nation has an interest in the services, the labor, and honest exertions, of all classes of her citizens, and they have a right to expect protection in their industrious pursuits, or to demand for what purpose government has been instituted. They have a right to ask us, how we can longer reconcile to our consciences, acting under an oath to support the Constitution, the disregard of that injunction to us to "make all needful laws for the establishment of a uniform system of bankruptcy" in the United States. Were we to calculate the vast number of persons, now absolutely idle, and which has been increasing for nearly twenty years, from their utter inability to engage in any active business, owing to the cheerless prospect held out under the present state of affairs, we can but regret, as a national loss of great magnitude, the mass of unproductive physical and intellectual power, where there is such ample scope for the development and exercise of both, without taking into the account the incalculable measure of private and domestic suffering consequent upon it. The evil to the bankrupt, by this continual suspension over his head of debts from which he can find no means to extricate himself, weighs him down, preys upon his temper, and suspends all his operations. He finds no inducement, under present regulations, to make any exertions to place himself in a condition to discharge his debts. As long as he continues liable for them, he finds it impossible to carry on business for want of funds and credit—the first he has exhausted to support

his family, and in waiting patiently for better times; and, for want of the latter, he cannot get consignments or property intrusted to his hands. Under these circumstances what can he do? It is as hard a task for a person to change his profession almost as for the Ethiopian to change his skin; for a merchant who has been brought up in a counting-house, or the tender tradesman, who has been for years posted behind the counter to follow the plough, exposed to the intensity of meridian heat or polar cold, or to wield the axe as a day laborer; and which, at best, would produce but a miserable daily pittance, and could afford no permanent relief. As he feels no encouragement to activity, industry holds out no temptation, and he either sinks into idleness, which soon leads him to intemperance, to drown his cares and sorrows, or roused by desperation at the cries of his half-starved family, he yields to the momentary impulse of dishonest impressions, and pays the forfeit of the violated laws with his life.

Mr. Chairman, are we ourselves not answerable for some portion of the evils felt? Look for a moment at the sad condition of Norfolk, and reflect what she was ten years ago, and you will learn a solemn lesson of the instability of all human grandeur.

But a few years since the hum of industry was heard in every street, her commerce spread her sails to every breeze, and wafted the wealth of every climate to her port. Her merchant walked forth with a firm step, with the conscious pride of independence, and felt his importance in the scale of society and in his extensive utility to his Government. But what now is his situation? He is prone to the ground; his fortunes are ruined; his vessel has changed owners, or is rotting at the dock; his counting-house is barred to the light of day, and he is only viewed as a silent monument of grief, when he surveys from a corner her desolate streets. Can I think of the situation of these people, most of whom are my earliest friends and companions, with whom I have passed the most agreeable hours of my youth—whose hospitality I have experienced—whose friendship I have tried and proved, without feeling a deep solicitude for the fate of the bill, when I know that all their hopes rest upon it?

This boon, at any rate, cannot compromise the honor of the nation, if it extended to them. While they are writhing under the severe pressure of our foreign relations, which bears peculiarly hard upon them, in our determination to persevere in that course which the national honor points out, let us not overlook all other sources of relief and consolation by which we can soothe the sufferings of our fellow-citizens, and, thus justifying our ways to them, reconcile them to their lot. Let us not forget that we have caused (though unintentionally) no small share of this calamity which overwhelms them, that they are our children, and entitled to our parental regard. If, under these circumstances, we refuse them this relief, we might as well go further and commemorate our inhumanity, and, like Dicearchus, erect altars to impiety and injustice, and offer sacrifices upon

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

them; and worship these two vices as divinities. But pass this bill and the bankrupt has a motive, he feels an inducement held out to him for a fair surrender of all his property, because he thereby becomes entitled to his discharge, and again becomes free to recommence the dutiful work of supporting his family. Hundreds and thousands will rush forth from their concealment and speed towards this goal; they will be re-animated with hope, and, emboldened by acquired security, will proceed with excited zeal in the pleasing task of restoring their fortunes. The bankrupt will also feel his gratitude warmed towards the hand that extended to him this protection; he will call forth benedictions upon his country for this display of generous policy, while with conscious pride he enters into his usual routine of business, and resumes his station in the walks of society and at the long neglected social board. In such a flow of grateful feeling, he redoubles his exertions to merit the favor which has been conferred upon him, and in time he not unfrequently acquires the means and feels the disposition to reimburse every creditor to the last cent. In this divine occupation of dispensing happiness, of doing all possible good to our fellow-creatures, is to be found the true principle and the most sublime traits of legislation.

When Mr. S. had concluded, the Committee rose on the motion of Mr. GORHAM, (who intimated an intention to deliver his opinions on the subject;) and the House adjourned.

MONDAY, February 18.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, laid on the table certain letters from the Secretary of the Navy, transmitting information respecting the estimates for repairs and contingent expenses of the Navy for 1822; which were ordered to be printed.

Mr. Woodcock submitted the following resolution:

Resolved, That the Secretary of War be directed to lay before this House a statement of the number of cadets educated at the Military Academy, who have remained in the service of the United States five years, and the number who have received commissions and resigned, or been discharged from service before the expiration of five years; also, the number that have left the Military Academy without commissions, and the amount of money that has been paid each; also, the amount paid to cadets between the time of their appointment and that of their being mustered at the academy, and the time of leaving the academy, and the time of receiving commissions and entering the service of the United States; also, the number educated at the academy who were in the service during the late war; also, the expense of maintaining the officers and instructors of the academy each year, since 1802; and the expense of ammunition which has been furnished for the use of the academy, and the soldiers who have been stationed at the academy for the assistance of the officers and cadets since its establishment; and also, the number of cadets educated at the academy since its establishment, distinguishing those who are the sons of officers and soldiers who have fallen in the defence of their country, or died in its service.

The resolution was ordered to lie on the table one day.

On motion of Mr. HARDIN, it was

Resolved, That a select committee, consisting of seven members of this House, be appointed, whose duty it shall be to inquire whether any part of the public expenditures can be retrenched, without detriment to the public service; and whether there be any offices or appointments in the Government of the United States which have become useless and unnecessary, and can be dispensed with; and that the committee have leave to report by bill or otherwise.

Mr. HARDEN, Mr. WHIPPLE, Mr. TRACY, Mr. HOLCOMBE, Mr. ROSS, Mr. WILLIAMS, of North Carolina, and Mr. WILLAM SMITH, were appointed a committee, pursuant to the said resolution.

On motion of Mr. WILLIAMSON, the report of the Committee of Claims adverse to the claim of Josiah Hook, jr., was taken up, referred to a Committee of the Whole, and ordered to be printed; as also was the report of the same committee on the case of John Thomas, & Co.

THE BANKRUPT BILL.

The House then resolved itself into a Committee of the Whole on the unfinished business of Saturday—the Bankrupt bill.

Mr. GORHAM occupied the floor more than an hour, in opposition to the motion to strike out the first section of the bill, and was followed by

Mr. WOOD, of New York, who observed that he should not have risen in this late stage of the debate, if there had not been doctrines advanced to which he could not subscribe.

A statute of bankruptcy, said he, proceeds on the ground that certain acts or omissions constitute an act of bankruptcy, and enable the creditors at once to arrest the property of the bankrupt, take it out of his power, and have it applied towards the satisfaction of all his creditors.

Whether the debtor is solvent or insolvent, is not a question; but whether he has done, or omitted to do, what the law considers an act of bankruptcy; and his discharge is not a necessary consequence of his bankruptcy. The seizure and distribution of his property among his creditors depends upon their voluntary consent afterwards; but this is seldom withheld after a fair surrender, and is deemed an important feature in the system.

These acts or omissions are by law made *prima facie* evidence of an intention to delay and defraud creditors; but the debtor is permitted to explain them, and, if he succeeds in doing away the imputation, the commission will be arrested or superseded; and, although these acts do not necessarily import insolvency, yet they are such as may be more readily expected from that condition than any other, and are generally found to be the result of it.

The act of Elizabeth was confined to merchants and traders, and the bill before us is confined to them, with the exception of a few kindred employments.

The great and leading object of a bankrupt act is to secure the property of the bankrupt from

waste and dissipation, or from being absorbed by fraudulent preferences, and to distribute it among all his creditors, in proportion to their demands. To effect these purposes a summary process is necessary; and the gentleman from South Carolina (Mr. MITCHELL) objects to this, as not conformable to the principles of the common law. But the same principle pervades the collection and attachment laws of the several States, the revenue laws of the United States, and the law for enforcing the payment of moneys in the hands of public officers; and it is unsound in argument to object to a principle in this bill which is already engrafted into the jurisprudence of the country. But another answer may be given to this objection, more satisfactory, perhaps, to its opponents; no common law process will reach these objects. The common law furnishes no means to enforce a discovery of the property of a bankrupt, nor any rule for its distribution. We are obliged to resort to the civil law for these, by which the conscience may be purged, and in which the first maxim is, that equality is equity. It is by this rule that contributions are adjusted in cases of average—that assets are marshalled, in favor of creditors, among heirs or devisees and legatees—that the estates of partners and joint owners are settled—and it is only by this rule that the distribution of the effects of a bankrupt can be rightfully made among his creditors.

But we are met, *in limine*, with an objection to that part of the bill which contemplates the discharge of the debtor. It is alleged to be a violation of moral obligation. Let us examine this matter. Moral obligation is a sense of right and wrong, dictated by the moral sense, and enforced by a sense of accountability. These dictates are original impressions, or first truths, rather than the results of abstract reasoning; they are better felt than expressed; every man is under a moral obligation to speak the truth, to observe his word, to keep his promise.

Now suppose, said Mr. W., that this Committee was a convention, elected by the people of the United States to frame an original social compact, and it should be moved to insert a stipulation that, if any citizen should, without fault, become utterly unable to pay his debts, and should make a fair surrender of all his property, for the benefit of his creditors, he should be forgiven the remainder of his debts. I appeal to the moral sense of every member of the Committee, whether he would not agree to it, and whether such a clause would not be in harmony with all his moral feelings? And can any one, who makes his own forgiveness of others the measure of his morning and evening petitions to the Fountain of Forgiveness, question the morality of the compact? It is very evident that such an article would cover every subsequent contract made under the Constitution; every contract must be presumed to be made with reference to it, and subject to its operation. The possibility of dissolution on the contingency would be incident to every contract, an original ingredient inherent in it, and as inseparable from it as from a material object.

This is the very nature of the power in the Constitution that authorizes Congress to establish uniform laws on the subject of bankruptcy, and this is its operation. Indeed, the gentlemen who made this objection, (*viz*: Messrs. ARCHER and BARBOUR,) seem to me to have abandoned it by admitting the justice of the statutes of limitation. The principle is the same in both cases. The power of discharging the bankrupt, contained in the bill, is, therefore, not retrospective; nor does it violate any obligation; but, on the contrary, being a part of the original social contract of the nation, or of the people in their national and constituent capacity, inserted for the benefit of a certain class of citizens in given circumstances, it becomes a moral duty to exercise the power for the benefit of those whose situation authorizes them to demand it.

Mr. W. contended, that the provision in the bill was not only lawful in itself, but essential to every social contract in which the happiness of the people was the end of the association; that the property of a debtor was the ground of his credit and ought to be the measure of satisfaction; that, to extend the remedy further, was to invert the order of nature—to elevate the rights of property on the ruins of those of person—to sacrifice personal liberty and social happiness to the gratification of avarice and revenge.

That every independent Government prescribes the quantity of interest that individuals may have in real property, the subject-matter of contracts, the capacity of making them, and regulates the means of enforcing them in such manner as to render the use of property subservient to the public welfare; with this same view, the several States abolished the laws of entail and primogeniture, and control the operation of contracts by the statutes of limitation and the decrees of chancery.

That the legal obligation of contracts was the remedy provided by law for the recovery of debts, the decisions of the courts of justice enforced by these officers, or, in other words, the will of society enforced by the power of society. That the denial or suspension of the remedy, as in the cases embraced by the statutes of limitation, left the moral obligation entire.

That it could not be denied but that moral obligation would be discharged by physical inability, much more ought legal obligation to be discharged where there existed a moral impossibility to pay and a moral certainty of its continuance. Society is a moral person, and under moral obligation to avoid cruelty, prevent oppression, and to consult the happiness of all the citizens—to subject an innocent debtor, helpless and hopeless as he may be, to misery and despair, is to erect a legal against a moral obligation, or, in other words, to establish iniquity by law.

Mr. W. remarked, that moral obligation had, during the debate, been confounded with legal; that they were not necessarily connected; that legal edicts sometimes were in hostility to the dictates of the moral sense; that this doctrine was calculated to ensnare the conscience; to set the

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

obligations of duty in array against the rights of human nature—to force men to the alternative of violating conscience or incurring the penalty of the laws—to lead unbending virtue, as had often been the case, to the scaffold or the funeral pile; that this was the doctrine of tyrants, contrived to quiet their subjects under oppression, and was calculated to prevent reform—to perpetuate every abuse, and to rivet the chains of slavery and superstition; that the advocates of this doctrine, if true to their principles, would have opposed the Reformation—the emancipation of France and England from the fetters of mortmain, and the United States from those of entails—would have opposed the revolutions in England and in this country, and would arrest that of South America.

That most of the Governments heretofore established, in some respects, violate moral obligation. The Constitution of the United States was intended to be in unison with the law of nature, and is more or less excellent, as it approximates to it. The dissolution of contracts, when their continuance would contravene the law of nature, is one of its excellencies.

Mr. W. further contended, that the necessity of this provision was enhanced by the consideration, that such are the facilities of trade in the United States, that, without abusing the gift of Providence, a large proportion of our citizens will engage in commercial concerns; that the provision in the Constitution was principally, if not exclusively, intended for merchants and traders; that they were distinguished from all others by the extent of their business and the mode of conducting it.

Farmers deal for cash or on short credit, and their business rarely extends beyond their neighborhoods—their risks never exceed a small part of their income, and their creditors may secure themselves by liens on their real property, without disturbing them in the use of it. But the dealings of a merchant, engaged in foreign trade, are commensurate with the civilized world—credit, which always involves more or less risk to the creditor, is essential to the merchant; his whole capital is often embarked in an adventure—exposed to the treachery of the elements—dependent on the integrity, skill, and successful enterprises of innumerable others, over whom he has no control, and for whose fidelity he has no security but the common good on which the existence of foreign commerce rests. So interwoven, indeed, are commercial concerns with each other, that a single adverse occurrence, like the displacement of a pin or pivot in a complex machine, may derange the whole connexion.

Again, mercantile property is not the proper subject-matter of any lien. The surety of a merchant is good faith, and success or failure are necessarily at the risk of his creditors; and, in the latter event, an equitable participation in the effects of the failing merchant, is, in equity and good conscience, a fulfilment of the contract.

Mr. W. regretted that reflections had been indulged, during the debate, indicating a doubt of

the utility of both credit and commerce. In his opinion, the growth and prosperity of the country were greatly indebted to them, if not principally owing to them. He reminded the Committee of the state of the country before the adoption of the present constitution; that Mr. Jefferson has stated, in his letter to Mr. Hammond, that, if the whole soil of the United States had been sold at auction, after the Revolution, for gold and silver, it would not have paid the debts due to the British merchants. Credit was the lever with which the merchants have raised the country to its present elevation; it is a kind of mercantile funding system, which enables them to enlarge their capital by anticipating the profits of their enterprises.

Individuals may have been injured by it, but the country has reaped the benefit of it. It was by commerce, aided by credit, and inspirited by the condition of Europe, that, in less than twenty years from the adoption of the Constitution, trebled our exports and our revenue—added one-third to our tonnage and number of seamen—converted ten millions of forest into improved fields, and extinguished one half of the national debt—that erected our national establishments—enlarged our cities—improved our country, and had laid the foundation of every valuable improvement.

The change in the state of Europe has diminished the extent of our trade and created great embarrassment, but all our permanent improvements remain as monuments of the wonder-working power of credit and commerce.

Commerce not only exchanges the productions of the soil and the workshops of one country for those of another, but makes the discoveries of science, the inventions of art, and the improvements in policy, of all civilized nations, the common property of all. What but the torch conveyed by commerce from the sacred fire of liberty in this country, has enlightened the political darkness that enveloped our brethren in South America, and guided them to the temple of liberty?

What but the improvements in policy, derived from this country, has produced a new era in Europe, and accelerated the march of every people towards representative government?

Again sir, said Mr. W., commerce has an important moral influence—it tames the savage and subdues his ferocity—it softens the manners and ameliorates the condition of civil society—it has civilized Europe—diminished war and lessened its horrors. Commerce forms all commercial nations into one great community, united by their wants and their interests; its rights are respected in war—secured by treaty, and enforced by a peculiar code of jurisprudence. We are known to several nations only by our merchants, they extend the influence of our national character. China and Calcutta, the worshippers of Confucius and Brahma, as well as the Christian capitalists of Europe, trust our merchants on the faith of our national character.

While this extension of trade enforces the argument for the provision in the bill to protect the merchant against the results of increased risk, it furnishes an additional inducement for it to secure

the foreign merchant, who has relied on your good faith, an equitable participation in the effects that may be saved from the wreck of misfortune.

Sir, said Mr. W., the claims of our suffering merchants to relief have been impeached, by ascribing their distress to improvidence, extravagant and dishonest speculation. This may have been the case in some few instances; dishonest men will be found in all classes of society; the profession of the law is not exempt from such as dishonor it; but this was no just reproach to the great body of honorable men that compose that profession; that, for fidelity to their word, punctuality to their engagements, integrity in their dealings, and honorable sentiment, the merchants would not suffer by a comparison with any class of society. He wished that every class was equal to them in these respects; good faith is the basis of the profession; their unexampled punctuality is evinced by the fact that the whole losses on revenue bonds, until 1819, amounted only to 1.45 of one per cent.—their patient endurance of privation and suffering during the restrictive system; their patriotic sacrifices to give that system effect, and the suppression of smuggling at that period, and during the war, by the mere union of honorable and patriotic sentiment, entitle them to the gratitude of their country.

Mr. W. contended that the distress of our merchants resulted from the changes in Europe for the last thirty years, and the effects of those changes on this country; that the derangement of our trade, and conflagration of our vessels, by the decrees and orders of the belligerents, the operation of the restrictive system, and the war of 1812; the fall of imported goods in 1816 and 1817, in consequence of the immense importations of 1815; the fall of our own produce in Europe in 1818 and 1819; and last, though not least, the diminution in our circulation from 1815 to 1819, of nearly fifty per cent.; were so many stages in the road to ruin, and were amply sufficient to account for the distress of our merchants. The only wonder is, said Mr. W., that their distress was not much greater; and had not their unconquerable industry and enterprised them to visit every country where trade exists, and to explore every sea where there is a whale or a seal, these calamities would have ruined them, and brought bankruptcy upon the nation.

If ever derangement of affairs found an apology in the instability of government, or in the conflicts of nations, the present distress of our merchants is entitled to it; the provision in the bill is calculated for their relief, and, under my present impressions, I must say that a denial of it would be more than a denial of justice.

Sir, said Mr. W., by the eighth section of the first article of the Constitution, Congress have power "to establish uniform laws on the subject of bankruptcies throughout the United States;" and I should have supposed that, if the unqualified extent of the grant had not cut off all doubt as to the extent of this power, the act of 1800, with the adjudication under it, would have put the question at rest.

The gentleman from Virginia (Mr. STEVENSON)

had contended, that the terms of the grant would be satisfied with a discharge of the person; that the powers of the General Government were delegated powers, and must be construed strictly; and, therefore, that a discharge of the person merely was the limit of the power. By this rule the power to lay a direct tax would be exhausted by a tax on houses, the power of taxing imported goods, by a tax on sugar and molasses; test every power by this rule and you reduce the General Government to the minimum of power, and, if the comparison could be allowed, the Constitution would resemble a seventy-four, with no other than top-gallant sails—unable to move.

A recurrence to the origin and formation of the Constitution, will evince the fallacy of the rule, and may correct the false impression it has excited respecting the rights of the respective Governments.

At the Revolution, the sovereignty of the country devolved on the people of the United States; the people of each State were the sole and independent sovereigns of that State; in each they formed a compact, by which the sovereign power should be exercised.

On the adoption of the present Constitution of the United States, the people of each State transferred the same portion of their sovereign power from their State constitutions, and deposited them in that of the United States, by which that portion of sovereign power should be exercised as to general objects.

The sovereignty of the nation is in the people of the nation, and the residuary sovereignty of each State is in the people of the States.

The powers of the General Government are limited by the enumeration in the Constitution, but the powers of the State governments are as much delegated powers as those of the General Government. The powers transferred to the General Government are as ample as the people could confer them, they comprise their whole sovereignty on those subjects; or, in other words, are expressions of the will of sovereign people—that such portions of their sovereignty should be exercised by the General Government. The boundary—the line of demarcation between the powers of the two Governments, should be strictly observed; but, with regard to the extent or operation of the powers clearly granted, the same rule of construction applies to each.

The power over the subject of bankruptcy is as broad as language will admit; and is an expression of the will of the people that the General Government should have the plenary exercise of that portion of their sovereign power.

Another gentleman from Virginia, (Mr. SMYTH,) objects to the exercise of this power as derogatory to the States. I would ask, said Mr. W., that gentleman, if he should be appointed executor of an estate, and his neighbor guardian of one of the infants, whether he would consider one appointment derogatory of the other? The powers of both Governments emanate from the people—they have allotted different portions to the different Governments for distinct and specified purposes—

FEBRUARY, 1822.

Proceedings.

H. OF R.

the agents who administer both are chosen by the people. Congress, to exercise that portion of sovereign power which is intrusted to the General Government—the State Legislatures to exercise the residuary portion of sovereignty, which is by far the greater part of it.

The whole sovereignty is thus partitioned between the two Governments; they constitute one whole, and, like the bodies that compose the solar system, while each keeps in its proper orbit, they will mutually support and strengthen each other, but, if either should depart from its proper limits, the same direful result may be apprehended as if a planet should approach too near, or recede too far from the solar centre.

A great variety of objections, said Mr. W., have been urged against the details of the bill before the Committee; some of these are reasonable, and may be removed by alterations and amendments, without injury to the bill; the remainder may be reduced to two classes: First; such as are incompatible with the exercise of the power vested in the Constitution in any way whatever. Second; such as go to impeach certain principles of practice incorporated in the bill, that are recognised in the jurisprudence, both of the States and of the United States.

It is obvious, that these objections cannot be sustained on any principles of sound reasoning—it would be a waste of time to enumerate them; I shall therefore leave the application of these rules of discrimination to the good sense of every member of the Committee, simply observing, that every authorized end necessarily involves the means of its execution, and that the laws of every Government must be executed by officers that are responsible to it.

He contended that the necessity of a bankrupt act grew out of the want of power in the States to pass acts of this nature; the discordance of State laws, on the subject of debtor and creditor, and the partial operation of those laws in favor of resident creditors, to the manifest injury of those of other States, and especially of other countries; that the necessity was greatly enhanced by the number of unfortunate debtors who needed relief, and who had a Constitutional claim upon the Government to rescue them from the pressure of misfortune, to which the changes of the times, and their own measures, had subjected them, and to restore them to a capacity to contribute to the public welfare.

That a state of things, similar to what we now experience, led to the insertion of this power in the Constitution, as a proper subject of national legislation, and that the same causes that led to its insertion now demand its exercise.

Mr. W. said, that he had taken up so much of the time of the Committee, that he must conclude without extending his remarks—he should barely add that, in his opinion, a bankrupt act, if faithfully administered, would produce the best effects; it would diminish speculation, fraud, and perjury; it would destroy that spurious credit that was the fruitful parent of usurious loans and fraudulent

preference, and would regulate credit and place it on its proper basis.

That the passage of the act would injure no one but dishonest creditors, who deserve no sympathy; that it would be an act of justice to general creditors and of humanity to unfortunate debtors; that it was calculated to insure the confidence of foreign nations who had confided in our good faith, and would strengthen the bonds of our Union by the assurance of uniform and universal justice.

When Mr. W. had concluded—

Mr. FULLER took the floor, and intimated his intention to express his views of the subject, but owing to the lateness of the hour, moved that the Committee rise and report; which was agreed to; and the Committee had leave to sit again.

TUESDAY, February 19.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill making appropriations for the military service of the United States for the year 1822; which was read twice, and committed to a Committee of the whole House on the state of the Union.

Mr. RHEA, from the same committee, reported a bill concerning invalid pensioners; which was read twice, and committed to a Committee of the Whole.

Mr. McLANE, from the Committee on Naval Affairs, made an unfavorable report on the petition of Thomas Kemp; which was read, and committed to a Committee of the whole House to-morrow.

The resolution submitted yesterday by Mr. Woodcock, calling for information relative to the Military Academy at West Point, was taken up. Mr. W. avowed friendly views in relation to that institution, but thought it expedient for its own benefit that inquiry should be made into the manner in which it had been conducted, and trusted that the result would put at rest those apprehensions that some gentlemen seemed to entertain on the subject.

Mr. LITTLE suggested that most of the information called for by the resolution was already in the possession of the House. With the view of affording time to the mover of the resolution to examine into the subject, he proposed that the resolution be laid on the table. That motion was supported by the mover, and Messrs. SMITH of Maryland, CONDUCT, and EUSTIS, and opposed by Messrs. WOODCOCK, CANNON, WRIGHT, and NELSON of Maryland, when the question was taken on the motion and negatived.

Mr. CONDUCT moved to amend the resolution so as to strike out the first part, which makes the call upon the Secretary of War, and in lieu thereof to make it the duty of the Committee on Military Affairs to examine into the subject; and the resolution, thus amended, was thereupon adopted.

Mr. CANNON called for the consideration of the joint resolution submitted by him on a former day, directing the Secretary of State to deliver to certain claimants the title papers of lands in the State

of Mississippi. The resolution was twice read, and, on motion of Mr. TAYLOR, the same was committed to the Committee on the Public Lands.

Mr. McLANE, from the Committee on Naval Affairs, made a report on the petition of William Thompson, accompanied by a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

The SPEAKER laid before the House a report from the Secretary of the Treasury, in obedience to the resolution adopted on the 5th instant, on the motion of Mr. COOK, in relation to the examination of the land offices in the States of Ohio, Indiana, Illinois, and Missouri, and the Territory of Michigan; which was read, and ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of War, containing his report upon various petitions for pensions, referred to his consideration at the present session; which, being read, the petitions were referred to appropriate committees.

Mr. BASSETT submitted the following resolution, viz :

Resolved, That the Secretary of the Treasury be directed to lay before this House a statement of the duties paid, and secured to be paid, at the custom-house at East River from its establishment, with the number of vessels in that district employed in foreign trade; also, the tonnage employed in the coasting trade, with a like statement from the custom-house at York.

The resolution was ordered to lie on the table one day.

On motion of Mr. TAYLOR, the Committee of Ways and Means were instructed to inquire into the expediency of providing by law for the payment to Anthony Martin, formerly mate of the schooner Alatheia, the sum of two hundred and twenty-seven dollars and fifty cents, being the balance awarded under the seventh article of the treaty of 1794, between the United States and Great Britain, to the captain, mate, and people, of the said schooner, and now remaining in the Treasury, appropriated to that object, upon such terms as are just and reasonable.

On motion of Mr. SCOTT, the Committee on the Public Lands were instructed to inquire into the expediency of making provision by law for ascertaining the several boundary lines of the State of Missouri, agreeably to the boundaries as established by the act, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain Territories," approved the 6th of March, 1820," by causing the same to be actually surveyed, marked, and designated.

On motion of Mr. WALWORTH, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of requiring the Postmaster General to state the price last given on the same route in all proposals hereafter published for contracts for transporting the mail; and, also, to inquire what further provisions may be

necessary to reduce the expense of transporting the mail of the United States.

THE BANKRUPT BILL.

The House then resolved itself into a Committee of the Whole on the unfinished business of yesterday—the Bankrupt bill.

Mr. FULLER rose and addressed the House in a speech of about an hour and a quarter, in opposition to the motion to strike out the first section of the bill; when

Mr. WOODSON expressed his intention of presenting his views of the subject, and moved that the Committee rise and report, which was agreed to; and, after leave being granted to the Committee to sit again, the House adjourned.

WEDNESDAY, February 20.

Mr. NEALE presented a petition of a large portion of the inhabitants of Georgetown, in the District of Columbia, praying that the jurisdiction of Justices of the Peace, in said District, in civil causes, may be extended to sums not exceeding fifty dollars; which petition was referred to the Committee of the Whole to which is committed the bill upon that subject.

The SPEAKER presented a petition of Marcus de Villiers, and Arnauld Guillemard, of Pensacola, in West Florida, complaining of their illegal arrest and imprisonment by the Executive authority of said province, and praying for the interposition of the authority of the Congress of the United States; which petition was referred to the Committee on Military Affairs.

Mr. RANKIN, from the Committee on the Public Lands, made an unfavorable report on the petition of John Gilder, Bernard McCreedy, William Davis, and Amos Roberts, on behalf of themselves, Stephen P. Chazotte and others, composing the East Florida Coffee Land Association; which report was read, and ordered to lie on the table.

Mr. STERLING, of New York, from the same committee, made a report on the petition of Clement B. Penrose, accompanied by a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

The House proceeded to consider the resolution submitted by Mr. BASSETT, yesterday; and the same being again read, was agreed to.

On motion of Mr. JOHNSTON, of Louisiana,

Resolved, That the Committee on Private Land Claims be instructed to inquire into the claim of Madame Maria Damerville, widow Bouligny, to a lot in the city of New Orleans; and if the same is valid, according to the laws of the United States in relation to the lands of Louisiana, to report a bill to confirm her title thereto.

A message from the Senate informed the House that the Senate had passed the bill, entitled "An act for the apportionment of Representatives among the several States, according to the fourth census," with an amendment. They have also passed a bill entitled "An act granting a right of pre-emption to Noble Osborne and William Doake," in which amendment and bill they ask the concurrence of this House.

FEBRUARY, 1822.

Military Appropriations.

H. OF R.

AMENDMENT TO THE RULES.

A motion was made by Mr. TAYLOR, that the daily hour to which the House shall stand adjourned, until otherwise ordered, be eleven o'clock in the forenoon.

Mr. BALDWIN moved to add thereto the following, to wit:

"And that whenever any subject shall have been under discussion for three successive days, either in the House or Committee of the Whole, no motion to adjourn shall be in order before five o'clock.

Which being read, Mr. BALDWIN then moved to lay the said motion and amendment on the table. Which being rejected,

And the said amendment being objected to, was declared inadmissible upon such objection, inasmuch as it tended to alter one of the standing rules of the House which declares that "a motion to adjourn shall always be in order," and that any motion to amend or alter the said rules must lie on the table one day for consideration.

The question was then taken on the motion of Mr. TAYLOR, and passed in the affirmative.

MILITARY APPROPRIATIONS.

The House resolved itself into a Committee of the Whole on the state of the Union, and took into consideration the bill making appropriations for the military service of the United States for the year eighteen hundred and twenty-two.

Mr. SMITH, of Maryland, (chairman of the Committee of Ways and Means, who reported the bill,) moved to bill the blank "for the pay of the army and subsistence of the officers" with the sum of \$982,917.

Mr. BALDWIN wished, before an appropriation of this sort was made, to see a plain statement of the revenue of the country. He was unwilling to go on, until he knew the footing on which our financial concerns really stood. He was willing to cut the expenses down—he cared not how high nor how deep it cut—but so far as to meet the revenue. The House was now called upon to pass a bill for the appropriation of a large sum. Before he could accede to it, he wished to see a plain tangible matter-of-fact statement of the revenue, and then the House could shape its measures accordingly. He was not prepared to vote for borrowing money, nor was he inclined to appropriate large sums in the dark, without knowing from what quarter they were to be met. He therefore moved that the Committee rise and report progress on this bill, with a view to postponing the final decision on it to a later period of the session.

Mr. SMITH, of Maryland, said that the appropriations of the last year for the support of the Military Establishment were exhausted. We are now two months on the new year, and there is nothing wherewith to pay the demands on that department. Is this, then, he asked, the proper time to delay? Was it expected that the officers of the Government should make personal advances? Certainly not. And neither the army nor the revolutionary pensioners could be paid. The payment of the latter had been deferred last September, and now an instalment became due early

in March. They were suffering for the want of it. The passage of this bill would not at all interfere with any propositions for economical reform which gentlemen might think proper to make. It was only intended to meet the demands that arise from laws now in existence, and which the faith of the Government is pledged to fulfil. Mr. S. was disposed to enter fully into the views of gentlemen with regard to any proper retrenchment, where it did not involve a denial of justice and legal right. He also expressed his confidence in the report of the Secretary of the Treasury. He was satisfied that there was such a revival of commerce that the revenue would be adequate to the expenditure, and he saw no necessity that the Committee should rise.

Mr. WILLIAMS, of North Carolina, was not disposed to throw any embarrassments in the way of the committee that had reported the bill. Yet he thought it the dictate of wisdom and prudence to halt at this step, and reflect upon the situation of the revenue, before these appropriations were made. From his acquaintance with the proceedings of the House, he had been led to observe that they were too often driven to make appropriations by the pressure of circumstances. At those sessions that are terminated by law on the 4th of March, the appropriation bills have been usually presented a few days before its close, and we are compelled to pass them without much examination of the details, for fear it should not become a law within the Constitutional term, and a violation of the faith of the nation result as a consequence. At those sessions, on the other hand, where the term is unlimited, we are met with a bill for partial appropriations to supply the exigencies of the first part of the year, and which we are always told is to be deducted from the general appropriation bill, and then this general appropriation bill is introduced at a period too late, or under circumstances too urgent to allow of that strict scrutiny which it was both the right and the duty of this House to make. Mr. W. thought the first and most obvious inquiry was, whether we have the money? This was a question to be put at the threshold, and he thought the inquiry of the gentleman from Pennsylvania (Mr. BALDWIN) had not been answered. If the chairman of the Committee of Ways and Means would give an assurance that no bill shall be reported to authorize the borrowing of money, or laying a tax, and that there would be money enough in the Treasury to meet all the demands upon it for the expenditures of the current year, he should be disposed to acquiesce in the passage of the bill, which that committee had reported.

Mr. SMITH, in reply observed, that, so long as the law on the statute book remained unrepealed, the expenditure authorized by it must be provided for and met, or the faith of the Government must be violated. And, in answer to the gentlemen from Pennsylvania and North Carolina, he could say, that, beyond the necessary disbursements already authorized and directed by law, this bill did not ask for the appropriation of a single cent. It was not for him, however, to answer all the inqui-

H. OF R.

Military Appropriations.

FEBRUARY, 1822.

ries that had been put; nor was he authorized so to do as chairman of the Committee of Ways and Means. They had not been consulted upon them. Yet, as an individual member of the House, he would say, that, in his opinion, no bill would be presented by that committee to authorize a loan or to levy a tax, though he thought they would probably report a revenue bill, which should be calculated to increase the revenue. And, as an individual, he would further give it as his opinion, that the revenue would be adequate to the expenditure of the current year, over and above the unavailable funds. The gentleman from Pennsylvania had wished for a tangible statement of the condition of the revenue, &c. A reference to the past experience of the country would convince the gentleman that such a statement was impracticable, &c. It had formerly been the practice to make the estimates upon a basis calculated upon an average of three preceding years. But, advertising to the condition of the country, in relation to the revenue department, for several years past, Mr. S. said that calculations, bottomed on principles which, till the recent extraordinary fluctuations in our commerce, had been found safe and correct, would now be fallacious. He concluded by expressing his belief that we could not rely on calculations made by comparing the past with the future; but, in view of the present condition of commerce, thought it fair to conclude that the income of the present year would be adequate to the expenditure.

Mr. BALDWIN did not wish to examine the merits of the act of 1816, (to which the gentleman from Maryland had alluded;) and he was sorry the case of the Revolutionary pensioners could not be attended to, and their wants supplied, without drawing after them other appropriations, on which he thought sufficient information had not yet been obtained. The bill was reported yesterday. It was laid on our tables this morning, and is not yet dry; and if he felt himself faulty in relation to this subject, it was in forbearing too long, rather than in coming forward too soon, to express his unwillingness to commit the nation to such an expenditure without knowing on what foundation the public credit was placed. He respected the opinions of the gentleman from Maryland as much as any other gentleman, but the individual opinions of a member were not a ground on which it was safe for a legislative body to act. They involved no responsibility. By a former report from the Committee of Ways and Means, the revenue of 1822 was to exceed the expenditure by \$5,200,000, and where is this surplus? He would consent to this appropriation, if it was to be limited to that surplus fund: but it was not; and the prophecies of four years having turned out to be incorrect, he was justified in judging of the future by the past. He felt it unsafe to adjust the appropriations upon any calculations of average: nor was he disposed to score down the treasury reports like the forecasts of an almanac, that predicts that, about these days you may expect to meet fair weather at the bottom. He would proceed with any gentleman and cut down expenditure, strike where it

would, until it met the revenue. He wished to see where the revenue really was. It had been the practice, year after year, to talk of balances. But where were they? In the air—and if balances in the air would meet the solid appropriations of the House there would be less objection to the passage of the bill. Mr. B. then adverted to the statistical account of the Treasury to show that, by the real situation of available funds, the Treasury was actually in arrear by much more than a million of dollars. The time had come when in his opinion it was necessary to make a serious and earnest call for the true condition of that department. Year after year reports had been made, and the only difference between them seemed to be in the magnitude of the errors they contained. There was one thing at all hazards, which it was the duty of this House to sustain—and that was the credit of the nation. Let this bill then be postponed until proper inquiry be made into that subject.

Mr. CAMBRELENG was opposed to the motion to rise and report. He said that many of his constituents were creditors of the Government, with whom it was a rule to allow no interest. One individual had a claim of \$50,000, which was unpaid; and he thought an immediate appropriation ought to be made, to meet the demands upon the Government, &c. Mr. C. said, he thought that, on this subject, the gentleman from Pennsylvania, (Mr. BALDWIN,) had brought to bear a gloom that had haunted his mind for four years past, and had led him into error. He (Mr. C.) wanted no almanac to convince him that the revenue was improving; and he exhibited a statement to show that such was the fact, particularly in the city of New York. There was a general revival of industry and trade in the United States; and whether the funding system was continued or not, he deemed somewhat immaterial—nor did it increase the aggregate of national wealth, if one department was enabled to borrow money from another; but he would stake his reputation, as a prophet, upon the prediction that the revenue of the next year would exceed the calculations of the Treasury by more than two millions.

Mr. BALDWIN was aware of the situation in which he was placed, but wished to be allowed to be supposed capable to think of one thing at a time. He did not, on the present occasion, rise to advance any doctrines as a radical, nor was it fair to suppose that he could have nothing but the tariff in his mind. With respect to the prediction of the gentleman from New York (Mr. CAMBRELENG) he was disposed to give it as much credit as to other dreams and fantasies of the brain. If, however, the gentleman would give bond, with good surety, to the people of the United States, for the fulfilment of the vision, it would then be time for the House to receive it as a basis of appropriation. It was proper, in such cases, that the House should know on what basis the prediction was founded. A calculation had been made, relative to the city of New York; but he should like to know how the city of Philadelphia fared this Winter? He thought that Congress had legislated long enough on dreams and visions, and it was now

FEBRUARY, 1822.

Military Appropriations.

H. OF R.

time to get rid of the air-castle-building system, and to sober themselves down to the plain matter of fact—to distinguish between money in the mine, and money in the pocket—and it was with that view that he moved that the Committee rise and report.

Mr. CANNON supported the motion, and, *inter alia*, inquired whether this appropriation was not founded on the idea of a continuation of the army establishment upon its present basis, without any reduction whatever?

Mr. RANDOLPH wished to carry the inquiry one step further than the gentleman from Pennsylvania—for he wanted to find, not only where the money comes from, but where it goes to! The Committee of Ways and Means did not seem to be a committee of supply, to get money, but only to get rid of it. It seemed, however, that we had grown wiser than our fathers, and that it was now an object, as expressed by the gentleman from New York, (Mr. CAMBRELENG,) of total indifference whether the sinking fund system was retained or not. Mr. R. then directed his remarks principally to the importance of retaining and supporting that fund. He presented, with his usual eloquence, a history of its origin and progress—traced it from the patriots who originated and sustained it—explained the difference that existed between it and the sinking fund of England—paid an elegant tribute of respect to the integrity of Hamilton and the wisdom of Sherman, who had not thought it a matter of indifference, and concluded by expressing his concurrence with the gentleman from Pennsylvania, that further light should be thrown upon the actual state of our finances before appropriations of so large an amount should be made.

Mr. CAMBRELENG replied to the remarks of Mr. BALDWIN and Mr. RANDOLPH.

Mr. ROSS renewed an inquiry, suggested by Mr. CANNON, whether this bill embraced the objects of the partial appropriation bill, that had been discussed some weeks since in this House?

Mr. SMITH, in reply, observed that it embraced only such disbursements as were of immediate and indispensable necessity. The partial appropriation bill was out of the question, and had no connexion whatever with the present. The bill was entirely predicated upon items contained in the statute book, &c.

Mr. SERGEANT thought that the House were brought unexpectedly to the consideration of subjects to which the legitimate purposes of the bill did not lead. Was it a question whether there should be a reduction of the public expenditures? No. Was it a question whether the Revolutionary pensioners should be cut short of their pay? No. The question was, whether the House would make appropriations to carry into effect the laws already in existence, or whether we should break the faith of the Government by failing to fulfil those promises to which that faith was pledged. We had a proposition to reduce the expenditures of one department of the Government—and might have a bill to increase the revenue of another—but this bill did not affect the one or the other, nor was any gentleman committed, by his vote upon it, to

support or oppose either of them as they should be brought forward. Mr. S. was rather disposed to think there would be a diminution, rather than an increase of the revenue, and this from the circumstance that our exports had essentially decreased, and this could not take place—certainly not for a series of years, without a diminution also of the imports. Yet he was in favor of the bill, because he thought the faith of the Government required its passage.

The question was then taken on the motion to rise and report, and lost—yeas 51, nays 78.

The question was then taken on filling the first blank with the sum proposed and carried.

Mr. SMITH moved to fill the second blank in the bill for subsistence, (in addition to an unexpended balance of \$128,863 37,) with the sum of \$74,793 63, which was carried without a division.

The third blank for forage of officers, (in addition to an unexpended balance of \$11,869,) was filled with the sum of \$5,675; and the fourth blank for the Medical and Hospital department, (in addition to an unexpended balance of \$12,133 44,) was filled with the sum of \$22,854 56.

Mr. SMITH moved to fill the fifth blank for the purchasing department, (in addition to an unexpended balance of \$55,089 40,) with the sum of \$73,433, which was agreed to: Mr. S. also moved to fill the sixth blank for the purchase of woollens, for the year 1823, with the sum of \$75,000.

Mr. TRIMBLE rose to ask the chairman of the Committee of Ways and Means a question. This seventy thousand dollars is required to purchase clothing for the Army. He wanted to know whether it was intended, in making the purchase, to give any preference to the woollens of American fabrication; and why the clothing of the Army is not entirely of American manufacture? His information justified him in saying, that this desirable object could be easily accomplished if the proper departments would continue their efforts from year to year in good earnest. He said he had an amendment in his hand, which, if adopted, would limit the purchases to articles of American manufacture; and he should consider it his duty to offer it, unless some satisfactory answer could be given to his inquiry. He took that occasion to say, generally, that each of the purchasing departments ought to give notice in all the States that supplies are wanted, and designate the articles; allowing full time for persons living at the most distant points of the Union to send in their offers to supply. This, he had been told, was done in most instances, and it had given great satisfaction. But still there were many complaints made on this subject, and, in some instances, not without good reason. It was his opinion that any other mode of granting contracts for supplies would, in many instances, operate as a monopoly in favor of particular sections of the Union; that it was fair and just to give the manufacturers in every portion of the country an equal chance; that the Government ought to invite competition by putting all upon a footing of the most perfect equality; that the Treasury itself would profit by the competition; that he had heard of cases in which the Govern-

ment was made to pay a higher price for articles on the seaboard, to supply the frontier, than similar articles of equal quality could have been had for at or near the places of consumption. He would give two or three instances from the department of Indian trade, which, if true, were manifest abuses. Lead was made in great quantities in Missouri, and sent to the large cities on the seaboard; and that about thirty miles below St. Louis, there was a shot factory, where any quantity of that article could be had, of a very superior quality, such as might come fairly in competition with the Philadelphia shot, and drive it out of the market; and yet, it was stated to him as a fact, that lead and shot had been purchased on this side of the mountains, and sent to the West to supply the Indian trading houses. The same had been said, and he believed truly, of tobacco, tomahawks, and other articles. The furs received at the trading establishments were usually brought to Georgetown to be sold; and it was a remarkable fact, that a portion of the same furs found their way back to the Western waters, to supply the demand among the hatters; whereby a loss accrued to the consumer equal to the expense of double transportation. It was said that peltry had been brought from St. Louis to Georgetown, and sold there, or on the coast, for very little more than half the current price at St. Louis. These facts had been proven, he understood, before a committee of the other House; and he was led to believe that there never was a more abominable speculation, in the small way, than had been practised upon the Government in some of these matters. He could give other instances of the same sort, but his main object at present was to call the attention of the Committee to the subject of domestic woollens, and to show the folly of purchasing supplies on the seaboard for the Western country. There was one factory in Ohio which, he believed, could furnish all the woollens for the Army. And all that he would ask for the Western people was, to let them enjoy their local advantages, and purchase from them such things as are consumed among them, if to be had there on equal terms.

Mr. SMITH said a few words in reply—referring Mr. TRIMBLE to a resolution submitted some days ago by a gentleman from Massachusetts, (Mr. EUSTIS,) respecting the clothing the Army in American manufactures.

Mr. EUSTIS observed, that, since he had offered the resolution referred to, he had communicated with the head of the purchasing department, and, to his great satisfaction, had found that his views had been anticipated in relation to the subject; for that all our soldiers were clothed in American fabrics. He expressed great confidence in that officer, and was satisfied that the proposition of the gentleman from Kentucky was superfluous.

The question was then taken on filling the blank with the sum of \$75,000, as proposed, and carried.

Mr. SMITH then moved to fill the blank for the Quartermaster General's department, for regular supplies, transportation, rent, and repairs, postage,

courts martial, fuel, and contingencies, and for extra pay to soldiers employed in the erection and repairs of barracks, and other labor, with the sum of \$313,217.

Mr. ROSS observed, that he understood that the business of courts martial had become a money-making job, and that a gentleman from the North (New York) had made the modest charge of thirteen or fourteen thousand dollars for presiding in them one year. He wished to be further informed on that subject.

Mr. SMITH said, the appropriation here proposed was in the usual form; and that, in relation to the claim referred to, it was *sub judice*, and not decided upon.

The question was then taken on the sum proposed, and decided in the affirmative.

Mr. SMITH moved to fill the blank for the contingencies of the Army with the sum of \$20,000.

Mr. COCKE moved to strike out that item; which motion was negatived.

Mr. CANNON moved to insert after the word "Army" the words "and the Military Academy," which was also negatived; and, the question being then taken on Mr. SMITH's motion, it was carried.

Mr. SMITH then moved to fill the blank for the Military Academy with the sum of \$13,979.

Mr. CAMPBELL, of Ohio, moved to amend the proposition by inserting in lieu thereof the words, "for quartermaster's supplies, transportation, mathematical instruments, books and stationery, for the Military Academy, &c.," which was assented to by the mover, and the original motion prevailed.

Mr. SMITH also proposed to fill the blank for the pensions to the invalids, to the commutation pensioners, and the widows and orphans (in addition to an unexpended balance of \$27,891 05) with the sum of \$317,108, which was agreed to.

Mr. SMITH further moved to fill the blank for pensions to the Revolutionary pensioners of the United States (including a deficiency in the appropriation of the last year of \$451,836 57, and in addition to an unexpended balance of \$191,345 06 of the year 1820) the sum of \$1,642,591; which was agreed to.

Mr. BALDWIN then moved to strike out all that part of the bill which precedes the appropriation for the pensions to invalid and Revolutionary pensioners—intimating, however, a perfect willingness that, if any gentleman wished to retain any particular appropriation, so as to make it a partial one, he would modify his motion accordingly.

Such a disposition not being manifested—

Mr. B. urged the adoption of his motion, and observed that he was unwilling that the urgency of the Revolutionary claims should drag after them other appropriations, amounting in the aggregate to more than four millions of dollars, on such a premature and inconsiderate deliberation. The question was then taken and negatived, ayes 40, noes 70.

Mr. SMITH then moved that the Committee rise and report the bills amended, which was agreed to; and the House adjourned without taking up the report.

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

THURSDAY, February 21.

Mr. SMITH, of Maryland, presented a resolution entered into by the Chamber of Commerce of the city of Baltimore, expressive of their opinion of the expediency of removing the restrictions on the West India trade, by a repeal or modification of the acts concerning navigation, passed the 18th April, 1818, and 15th May, 1820; which resolution was referred to the Committee on Commerce.

Mr. LONG presented a memorial of sundry inhabitants of Randolph county in the State of North Carolina, praying that additional measures may be devised and adopted for the total abolition of the African slave trade.—Referred to the Committee on so much of the President's Message as relates to the suppression of that trade.

On motion of Mr. WALWORTH, the Committee on Commerce were instructed to inquire into the expediency of so modifying the provisions of the first section of the act, entitled "An act further to regulate the entry of merchandise imported into the United States from any adjacent territory," approved March 2d, 1821, so as to substitute a penalty of four times the value of the merchandise imported, subject to duty, instead of the present penalty, in all cases where the value of such merchandise shall be less than one hundred dollars.

Mr. COCKE submitted the following resolution:

Resolved, That the President of the United States be requested to cause to be laid before this House a statement showing the amount of woollens purchased for the use of the Army during the years 1820 and 1821; of whom the purchases were made; at what prices, and what proportion thereof was of American manufacture.

The resolution was ordered to lie on the table one day.

A motion was made by Mr. COOK, that the two reports made by the Secretary of the Treasury, upon the subject of the examination of the Land Offices of the United States, be referred to a select committee.

Mr. CONDUCT moved to amend that motion by substituting the Committee on the Public Lands instead of a select committee. This amendment being rejected, the question was taken on the motion of Mr. COOK, and passed in the affirmative. And Mr. COOK, Mr. RUSSELL, Mr. COLDEN, Mr. McLANE, Mr. TRIMBLE, Mr. STEVENSON, and Mr. LOWNDES, were appointed the said select committee.

The bill from the Senate, entitled "An act granting a right of pre-emption to Noble Osborne and William Doake," was read twice, and committed to the Committee on Private Land Claims.

The amendment proposed by the Senate to the bill, entitled "An act for the apportionment of Representatives among the several States according to the fourth census," was read, and referred to the Committee on the Judiciary.

THE BANKRUPT BILL.

The House again resolved itself into a Committee of the Whole on the bill to establish a uniform system of bankruptcy.

Mr. WOODSON, of Kentucky, addressed the Chair as follows:

Mr. Chairman—Was there no other evidence afforded of the deep interest excited by the subject now under discussion, than the talents and zeal so ardently displayed by gentlemen who have participated in the debate, its importance would be readily admitted by all those who have witnessed that display. It must have presented itself in an imposing attitude; either our sympathies, or our reason and judgment, must have been considered as likely to be enlisted, or gentlemen would have deemed it unnecessary to exert their every power of eloquence, of research, of legal disquisition, of nice distinction, their knowledge derived from the theory and practice of foreign Governments, and our own, in order to prevent the measure.

Wherever the blessings of civil liberty are enjoyed, they have been preceded by the illumination of the human mind; man has been redeemed, partially at least, from the rude and unpolished state of nature; the finer feelings of the human heart, improved and cultivated by education and social intercourse, have hushed the angry passions, removed our prejudices, divested us of superstition, and converted man into a humane and reasonable creature. Those blessed effects are in nothing more conspicuous, than in the progressive improvements in the art of governing ourselves, and in the institution of benign and wholesome rules, or laws, for the government of others; in correcting our ancient and crude conceptions of right and wrong, and adapting them to the more enlightened state of public sentiment. If time is afforded, the opinion of the people may be said to be infallible, but, in order to obtain an expression of it, sufficient interest must be excited to elicit discussion.

That interest has been excited, and the opinion of a preponderating majority of our fellow-citizens of the seaboard, and of the commercial cities at least, has been eloquently and feelingly portrayed, in the numerous memorials and petitions, distinguished alike for the great ability and respect with which they have been submitted to our consideration. To escape from pain and misery, and seek after happiness, are propensities implanted in man by the great author of his existence. They have an all-powerful influence when applied to ourselves, and, happily for the human race, by the aid of our sympathies, and our magnanimity, they are often extended to others, alleviating their distresses, in ministering the balm of consolation to the wounded heart, lifting up the fallen, and inviting the meek, and lowly, and heavy laden, to knock at the door of mercy. We, yes, we, the Representatives of the People, the Legislature of the Union, are now placed in that awfully responsible, and still, I will say, enviable situation.

The voice of distress, of unexampled misery and want, has issued from thousands and tens of thousands of our unfortunate fellow-citizens, incarcerated for debt in this land of liberty, speaking to us from the grates of a prison, where they have long been confined, not for any criminal act, or intention to commit one, but because of their real in-

bility to pay their debts, through indiscretion or misfortune. That call is seconded by many lovely and fading matrons, fair, and amiable, and virtuous daughters; by numerous families of helpless and dependent children, rendered orphans, as it were, by the premature political death of their innocent, though unfortunate parent. What human being, what man of sensibility, can hesitate for a moment to insure for himself that high degree of satisfaction, that pleasure, resulting from acts of benevolence, and of mercy? From contributing to the happiness of others, from proclaiming liberty to the unoffending captive? No one, I trust, unless restrained by the most powerful of all considerations, a sacred and inviolate regard to the Constitution of his country, and the general good, to either of which, it is admitted, if the happiness and prosperity of a portion only of the community are opposed, they must yield.

But our Constitution has been considered as a brilliant monument of human wisdom and goodness, eminently adapted to secure the blessings of life, liberty, and property, against the attacks of the lawless and cruel invader. Is it not wonderful, then, that your shield should be converted into a weapon against you? And that the right to deprive you of your liberty, by imprisonment for debt, unlimited, except by the caprice of a relentless creditor, should be considered as guaranteed by that Constitution, professing to protect the liberty of the citizen? Is it not equally astonishing that the general good or policy of the whole, should require the wretchedness of any portion of the community? Those inconsistent positions are untenable, they are equally repugnant to the letter and spirit of the Constitution, and to public sentiment. I should be willing to risk the fate of this measure, on a direct appeal to the people of the United States, a vast majority of whom, I have no doubt, condemn the savage practice of imprisonment for debt, as being cruel and useless, and in direct hostility to the spirit of our free institutions.

I believe I speak the language of a majority of this nation, when I maintain that the most rigid justice only requires that the debtor should honestly and in good faith surrender up every thing in the shape of property he owns on earth to satisfy and pay his just, lawful, and honest debts; having exhausted all his efforts—his prudence and economy—to obtain the means; and that the creditor has no right to exercise an eternal lien on his person, to reduce him to a state of slavery or vassalage at least, and to deprive him of his liberty for the mere gratification of vindictive feelings, and that too in preference to the calls of nature—the ties of husband and wife, parent and child. No, there is no such right recognised by the laws of God, Reason, Justice, or our Constitution. We are certainly called upon by every consideration dear to the human heart to investigate this subject as deeply as possible, and with the single eye to truth. I must confess I view it as an indispensable link in a chain of measures essential to the happiness, prosperity, and future glory, of this nation; intimately and mutually affecting the great

divisions of our population—the agriculturist, the manufacturer, and the merchant; indeed, embracing all classes of the community, and the operations of the Government itself. My feelings may perhaps have led me too far in the preceding remarks, but they have been prompted by the occasion. I did not intend, however, to trespass on the patience of this Committee.

The honorable Speaker himself admitted, during his address some days since, that it was irregular in the opponents of the bill to attack its details; because it was in a Committee of the Whole—the exact situation or stage of proceedings in which the friends of any bankrupt system have the right, according to every parliamentary usage, to render it as perfect and unobjectionable as possible. Its friends ought not thus to be divided. My particular views are already known with respect to the first section of the bill, from the amendment heretofore offered by me, extending its privileges to every citizen of the United States who might elect to embrace its provisions, with the assent of his creditors. I can myself never consent to confine the boon exclusively to the mercantile class of society. I shall be compelled, then, from the course pursued, to vote in the negative as to striking out the first section of the bill, when in fact I could not ultimately give it my sanction.

From this single consideration it clearly results that the only justifiable arguments, on the part of the Opposition at least, are those tending to prove the want of power in Congress to pass a bankrupt law, under any modifications whatever, or the impolicy of doing so. It is in fact the natural order of debate; for if we do not possess the power; if our benign interposition is prevented by the Constitution of our country; and if the supreme judicial power of the United States have correctly decided that the State governments are also prohibited from extending their relief,—then indeed the last glimmering of hope is extinguished, and the wretched captive must be abandoned to his fate—anguish and despair. However, I despair not: I believe there is a redeeming spirit in the Constitution of the United States, and that the most enlightened views of policy demand its application.

My first effort will be to prove the Congress of the United States possess the power; my second, the policy and necessity of exercising it, in the establishment of a uniform system of bankruptcy or insolvency (it being unimportant which you term it) throughout the United States. The language of the Constitution is express and positive. No necessity exists for refined speculation, nice wire-drawn distinctions, resort to the etymology of the word *bankrupt*, or to its technical meaning. It is distinctly intelligible by the whole community. It was intended for the government of all, literate and illiterate. It therefore, like Holy Writ, adapts itself to the common understanding of the people, who are perfectly capable, without the aid of technicalities, to comprehend and conform to its essential provisions. We are to look at the text itself, and, discarding the different readings and constructions of the sacred instrument which

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

ambition or prejudice may have produced, I humbly conceive there will be no difficulty to encounter, no doubt to dissipate. What, then, is its language?

The eighth section of the first article of the Constitution of the United States expressly declares, that "the Congress of the United States," *shall have power* "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States." It would certainly be deemed an insult to the understanding and patriotism of this honorable Committee, was I to consume their time in attempting, by any thing that I might add to the declaration of the Constitution itself, to prove that the Constitution of the United States is the supreme law of the land. I shall content myself therefore by reading a portion of the sixth article: "This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby; any thing in the constitution, or laws of any State to the contrary notwithstanding." The Constitution then, and the laws made in pursuance thereof, are the supreme laws of the land.

All agree that the Government of the United States is limited, by the Constitution, that it possesses no powers not expressly delegated to it, or necessarily inferred from the nature of the delegated power; the chief source of difference and difficulty exists in resorting to inference, or implication, either to assume or defeat power. I shall take the position which no one will controvert, that the Government of the United States is one of limited powers derived exclusively from the Constitution; but within the legitimate space of its delegated powers that its sovereignty is complete. From the first dawn of jurisprudence, the first act of legislation, from the very nature and fitness of things, it always has, and ever will be conceded, that a general power, clearly delegated to do any act, includes within it all the incidents absolutely necessary to its completion, the power to do, necessarily implying the means of doing; otherwise, the power itself would be nugatory. This position is peculiarly applicable to a legislative power, it being within itself supreme. Its laws are defined to be a rule of civil conduct prescribed by a superior, which the inferior is bound to obey. The power then delegated by the Constitution of the United States, to establish uniform laws on the subject of bankruptcies throughout the United States, contains no limitation except that arising from the expressions themselves, and being conferred on a constitutional legislature. If the law be on the subject of bankruptcies, and uniform in its application throughout the United States, it is clearly within the legitimate and defined limits of the Constitution. The tenth article of the amendments to the Constitution declares, "the powers not delegated to the United States

by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people," clearly showing that where the power is delegated, neither the States, nor the sovereign people themselves, possess it. The powers of the General Government arise from the Constitution of the United States, adopted and confirmed in the most approved and solemn manner by the people of the United States. To give strength to the arguments I have hitherto advanced, I shall inquire, Mr. Chairman, into the extent of the power to legislate on the subject of bankruptcies, by the State governments, prior to the adoption of the Federal Constitution. In doing this, I shall be again compelled to resort to first principles, and to repeat that the legislative power of a country is the supreme power; that it has the right to control its own policy, to dictate and declare its rules or laws for the general good; and, so long as society exists, it is necessary for the citizens to recognise that supremacy, and conform to its will, or produce anarchy, and confusion, and the downfall of the Government. What is the limit of a legislative power? Nothing but a constitution, or set of fundamental laws, saying thus far you may go, but no farther. If the States, in their sovereign capacity, possessed the power to pass a bankrupt law in its most comprehensive form, to discharge even the debtor from all future liability, in other words discharging the contract, and if all the power they possessed was delegated to the Congress of the United States, it follows, as a necessary consequence, that Congress is vested with the same exclusive power; as the different States possessed it, and transferred it, Congress possesses it. Still further to fortify this position, I will appeal to the tenth section of the first article of the Constitution of the United States, which is as follows: "No State shall enter into any treaty, alliance, or confederation, grant letters of marque, or reprisal, coin money, emit bills of credit, make any thing but gold and silver coin a tender in payment of debts, pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility." What is the irresistible inference from this clause? Why, that the States prior to the adoption of the Federal Constitution, did, in their sovereign legislative capacity, possess the power to pass a law, even impairing the obligation of contracts, and would have retained that power had it not been prohibited by the Constitution of the United States.

But, in addition to this inference from this section of the Constitution, the fact is known to exist, that, at the very moment of its adoption, several of the States had laws to that effect actually in force, and in operation. It is therefore to my mind conclusive, that the power is clearly granted, and intended to be granted. What consequences would result from a contrary doctrine! By some gentlemen it has been contended that Congress possesses the power to legislate on the subject of bankruptcies, but that the word bankrupt having a technical meaning, applicable to merchants only, you have no right to embrace any others in its

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

provisions, thereby limiting the most comprehensive powers our language is capable of conveying by the English technical meaning of that word. Another gentleman (the honorable Speaker) says you are not bound down by that technical meaning, but another separate and distinct clause of the Constitution intervenes and prevents you from interfering with contracts, thus crippling and limiting the most unlimited power to establish uniform laws on the subject of bankruptcies. To establish is a term so general and comprehensive, that it certainly enables Congress, either to adopt the laws of bankruptcies, as known and understood in that country from which we derive the most of our ideas on the subject of jurisprudence, or to establish an entirely new system at the discretion of Congress.

The technical meaning of the word bankrupt, however, and the consequences of a discharge under a commission of bankruptcy, must have been familiar to the framers of our Constitution; they knew that, according to the British system, a discharge from future liability was the result, and it is fair to presume that if they had not intended to grant the power in extenso, they would have expressly limited it. The gentleman from Virginia (the honorable Speaker) confirmed the position for which I am contending by his own illustrations.

When we were about to legislate on the subject of the habeas corpus itself, the dearest privilege of freemen, he admitted we had a right to extend it beyond the English technical meaning, and make it applicable to criminal cases. That the same unlimited power exists as to laws on the subject of naturalization and inheritance. The power to naturalize is peculiarly applicable. As an American patriot, he certainly intended to convey the idea that the foreigner who seeks an asylum in this land of liberty, and flees to it from the oppression of despotism, renounces his allegiance to his prince or potentate, and takes the oath of fealty to this Government, is thereby discharged from future liability.

To what is that holy enthusiasm to be ascribed, which induced our brave tars, in the hour of sanguinary conflict, when contending for "sailors' rights and free trade," to nail our national flag to the mast-head, and die in a blaze of glory, with the words, "don't give up the ship," quivering from their lips, or the sons of the West to breast the storms of war, and Winter's keenest blasts, and offer themselves up as voluntary victims at their country's altar, and nobly bleed in its cause, on the fatal fields of the Raisin and elsewhere, if it be not this sacred principle that our Government is supreme and independent? Yet, when this subject is touched, at every view of which is presented the wretched confinements in times of sunshine and of peace of those who have and would again devote their lives to their country in the hour of difficulty, we are told they must perform impossibilities, by paying that which they have not, or linger out the remnant of their lives in imprisonment. The gentleman, however, last mentioned, concedes the power to pass a bankrupt

law, which would not discharge the bankrupt from future liability. I consider that as yielding the question, the discharge not being a necessary consequence of a bankrupt system. If I am correct in the positions I have taken, it is within the discretion of the National Legislature to adopt or establish any system which they, in their wisdom, may deem expedient—if I may be indulged, in the expression of the opinion I entertain on this feature of a bill, I should certainly advocate a qualified discharge only. If, by a fortunate resumption and prosecution of his accustomed pursuits in life, the insolvent debtor became enabled to discharge his debts and support his dependent family, honor, reason, and equity, would unite in saying that he who asks justice, and receives it, should do it; to avoid that ingratitude which might, by possibility, be exhibited, not only to his former creditor, whose turn it might be to be at the bottom of Fortune's wheel, but to the law itself, I would compel him to pay, if ever able, by a clause to that effect. This would soften the eloquent and highly colored picture drawn by the gentleman from South Carolina, (Mr. BLAIR,) be in conformity to the Virginia law, and thereby remove the scruples of the honorable Speaker, and no honest man's exertions, or usefulness in society, would be damped or lessened thereby.

The importance of this subject is considerably augmented by the difference of sentiment, the *agitation* it might be termed, which exists in certain portions of our Republic as to the extent and boundaries of powers rightfully belonging to the General and State Governments. It is ardently desired, by every friend to his country, that they may now, as they have hitherto upon trying occasions, happily subside, that apprehended dangers may vanish, and our complicated and beautiful system peacefully revolve in its bright career of usefulness and glory. My limited views on this subject are submitted, with the utmost deference, to the maturer judgment and more ripened experience of others. But it does seem to me, that wherever a power to legislate is clearly delegated to the Congress of the United States, it is impolitic in the State governments, or the friends of State rights, to attempt to destroy that power or cripple it by implication; neither ought the General Government to assume, by implication, a power not expressly delegated; both are equally dangerous, and attended with the same disastrous consequences.

Where the power is expressly given to legislate on a specific subject, it is limited only by the sound legislative discretion of the law-making power. What rational danger is to be apprehended of an abuse of that discretion? Are we not the immediate representatives of the people? Has the Legislature of the Union any distinct and separate interest from them? Do we not return to the bosom of our families and friends? Or, are we, or our posterity, exempt from the influence and operation of the laws? All will agree in the appropriate reply to these questions. Both Governments are indispensable to the happiness, prosperity, and existence of the Union; and, whilst we would

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

cherish, and guard, and protect, at every hazard, the sovereignty and independence of the States, let us sit as sentinels, also, on the watch-tower of the Federal Constitution. It is, I hope, unnecessary to beseech the friends of State rights to avoid the imputation of inconsistency itself, by resolving not to deny a power by resort to implication only, when they properly refuse to acquiesce in the right to assume it in that way. Whilst I protest against the assumption or declaration of a power by implication, as gentlemen who have preceded me in this debate have resorted to inference to give strength to their arguments, I hope I shall be indulged in noticing them in part. The honorable gentleman from Virginia, (Mr. STEVENSON,) who first addressed you, in justly eulogizing the framers of our Constitution as the brightest galaxy of talents, wisdom, and patriotism, who ever lived as the ornaments of any country—recalling to our fond recollection the illustrious names of a Mason, a Grayson, and the immortal Henry—stated that they had, with an eagle and lynx-eyed scrutiny canvassed the Federal Constitution, and descended even to minutæ in their objections to its adoption; yet, to this clause of the Constitution there was not a dissenting voice: and, denouncing it as being contrary to the eternal principles of reason and justice, and at war with the fundamental principles of liberty and the social compact, drew the conclusion that such men could never have assented to it. Do the premises justify such a conclusion? Would it not be more correct and charitable to infer that they deemed it at least a harmless, if not an indispensable power. But those principles of reason and justice are said, by another gentleman from the same State, to be paramount to all law, founded in human nature, itself independent of, and, consequently, subservient to, no earthly Constitution. This is, indeed, the broadest basis imaginable. What a field for implication! What a source of power! Only admit the plea of reasonable and just, and, the proof corresponding with the allegations, you, by this single engine, this mighty lever, overturn the fair fabric of our liberties, and crush the fondest hopes of mankind beneath them. What standard of reason are we to apply to? The Godwinian or Utopian? Or, to that of some enlightened Virginia, New York, Pennsylvania, or, if you please, after the next, or succeeding census, Ohio statesmen? Or, are we to yield to the fiat of either of those great States? Heaven forbid it! It will not do to pursue this idea; the union of the States depends on our veneration of the Constitution as the perfection of reason and justice. If experience evinces that any of its provisions are inconsistent with those great principles, a mode is happily pointed out in the instrument itself for its amendment.

Thus far, Mr. Chairman, as to the powers of Congress to establish a uniform system of bankruptcy throughout the United States. I solicit the indulgence of this honorable Committee whilst I inquire, as briefly as possible, into the policy of their exercising that power.

The public interest and its policy are synonymous terms. It will not be controverted that so-

ciety is deeply interested in the active and profitable employment of all its citizens. Indeed, labor constitutes the wealth of nations. The idle are drones in the political hive, subsisting upon, and exhausting the means of others, frequently interrupting the busy class in the promotion of their own and the common interest. They must, however, be in some way maintained; actual want may, and does, often stare them in the face; but with us it is always averted—either the hand of charity is extended to their relief, or some more fortunate or industrious relative redoubles his exertions, and parcels out his scanty earnings to the needy and dependent.

This, however, tends to lessen the general prosperity. The passage of a well digested bankrupt bill, would, I believe, arouse the desponding spirits of thousands of our fellow-citizens, who are now in a state of torpor and despair, re-invigorate their dormant energies, and, with the aid of those awful lessons of adversity which they have experienced, render them useful members of society. This alone is, with me, a powerful consideration.

But the policy of this measure is not exclusively limited by the effect it would produce upon the unfortunate bankrupt. It would tend to insure the credit and stability of all. The commercial operations of society are conducted by capital and credit, which may also be justly considered as a species of capital, equally indispensable as a circulating medium itself. In order to command capital, or sustain that credit, uniformity, promptness, and decision, in our laws, are necessary. What is the actual situation of the United States in relation to its laws on the subject? The greatest inequality and want of uniformity prevail, engendering distrust, destroying confidence between man and man, irritating the feelings of individuals and of States, loosening the bonds of social intercourse, giving a vital wound to individual and national credit; in fact, promoting and protecting frauds, as complicated and extensive as can possibly result from a bankrupt system. One law exists in Pennsylvania; another in Maryland; a different one in Virginia and South Carolina; from all of which, the regulations of the State I have the honor, in part, to represent, may widely differ. Indeed, it may be said that every State or Territory in the Union has its peculiar system, materially variant from each other.

In Virginia, real estate is considered sacred, and protected from sale under execution for debt. You can only extend it. You can issue a *ca. sa.* against the person; but if the debtor takes the oath of insolvency he is discharged, unless the creditor proves, before a court of justice, that he has acquired sufficient property to pay the debt. Not so, perhaps, in Pennsylvania. There, estate, both real and personal, is liable; the person also of the debtor may be taken in execution, at the will of the creditor. In the State of Delaware, I am told that, even to this day, their statute book is stained with a law, permitting, under certain circumstances, the debtor to be sold to pay his debts. In Maryland, the man who takes the insolvent debtor's oath is discharged from future liability;

H. OF R.

The Bankrupt Bill.

FEBRUARY, 1822.

the debt is cancelled, and the creditor cannot afterwards enforce payment, even if sufficient property should be acquired. In some States replevin laws, and other measures of delay, are sanctioned. Candor compels me to say such is the fact in my own State. Replevin after replevins are permitted, unless the creditor will consent to receive a currency admitted to be greatly under par. When honored with a seat in our Legislature, my feeble voice was raised in opposition to those measures, believing them impolitic and unjust, and that the remedy for existing evils was alone to be found in economy and industry, and the interposition of the National Legislature. Some inaccuracies may be found in my representation of the different systems in the respective States. That, however, will not affect the argument. If tolerably correct, what a picture of inequality and injustice? How destructive to national repose and respectability! If credit be essential to an individual or a Commonwealth, the means of sustaining that credit ought to be afforded and secured by every Government. And it was for this purpose that the power to regulate commerce with foreign nations and the different States was vested in the Congress of the United States. It was wisely foreseen that the interest and the feelings of the States might be at variance on this subject; that, because of their diversified habits and pursuits, peculiar circumstances might induce the Legislatures of the States to lose sight of general principles, and adapt their legislation to the convenience of their own citizens. The want of uniformity is the great evil. The character of the law would not be so important if the same rule was known to exist in every State, and throughout the Union. Then the means of sustaining credit would be equal. The foreign merchant or manufacturer, who sold his merchandise or manufactured goods to the importing merchant of the different cities on our seaboard, would know that the same means of coercion existed in each of those cities. And the importing merchant, selling to the retail merchant of the interior, would also feel a confidence in the equality of our laws, and, rest assured, if necessary to be resorted to, that even-handed justice would be received. The farmer, the manufacturer, or mechanic, indeed, all classes of the community who contract, would participate in those feelings. General confidence would be restored, the same means of preserving credit extended, and the same penalties only inflicted for its breach; and the picture, too frequently exhibited, of the utter ruin and confinement of men in solvent circumstances, rendered incapable of meeting their engagements, because of legal obstructions to the collection of their just debts, would be removed, and the peace and harmony of individuals and the States preserved. It is believed that a uniform system would supersede the jarring and conflicting State laws on this subject.

But the Government itself, Mr. Chairman, is deeply interested in this preservation of credit—this equal and uniform operation of its laws. A resort has been but seldom made to direct taxation. Our national coffers have been sustained by commerce;

the mercantile class of the community are immediately responsible; the consumer, who really pays the duty, ultimately so. As long, therefore, as the present mode is adhered to, and the Government resolve to rely exclusively upon that source for its revenue, justice to itself and others requires that every facility and security should be afforded in its collection. Indeed, any measure calculated to foster and protect commerce will be attended with salutary effects on every other pursuit.

An additional argument is furnished by the genius and character of our own people. They are the most adventurous and enterprising upon earth; they exhibit a Hercules in their infancy; their commerce extends to earth's remotest bounds; our sails are spread in every breeze; our canvass whitens every sea. Educated in a land of liberty, inspired with the genius of our Constitution, they derive from it uncommon energy of character; they meet a foe conscious of victory; they penetrate the most secluded corners of the globe, where interest or laudable ambition leads them, and return to their country, like the busy bee to his dear and native hive, richly laden with the well-earned fruits of their exertion. Our national honor and glory stand already foremost in the rank of nations. Yes, to be enabled to say, I am an American citizen, elevates you to a rank equal at least to him who boasted of like honors in the proudest days of ancient Rome. With such a people, stimulated to action by their own peculiar and inherent qualities, ordinary circumstances are sufficient to lead them into excesses. Need I recall to the recollection of the honorable Committee the era in which we live—the most sublime and portentous in its character! A world in agitation!

Man, fettered and bound down by the cords of despotism and superstition, slumbered in ignorance of his rights, until awakened by the voice of reason, proclaimed by the American Revolution. Their noble ally in the cause of freedom, the French nation, following our bright example, burst their fetters, and determined to be free. Her bright career in the path of glory and renown stands recorded in the annals of time, never to be obliterated.

But humanity bleeds at the recollection of its own infirmities. The ardor of liberty was omnipotent; every thing yielded to its influence, until supplanted by military glory, identified in the person of their illustrious leader, fortune's favorite son. Ambition was his leading passion, and the rock upon which the national vessel split. The arm of liberty was unnerved; the object was changed, instead of freedom to France, into that of universal dominion and control. The finger of Heaven was no longer seen directing her councils or her arms. A mighty external coalition, co-operating with internal causes, smothered the flame of liberty, and error gained a temporary triumph over truth on the fatal field of Waterloo. The contest, however, was long and bloody. The American nation were not idle and indifferent spectators of those great events; our sympathies and our wishes were ardently enlisted in the cause of freedom. But prudence dictated the attitude of dignified

FEBRUARY, 1822.

The Bankrupt Bill.

H. OF R.

neutrality. It was known that the ploughshares of Europe had been converted into swords, and her subjects called from productive labor into the field of battle. A demand was created; we became the carriers of the belligerents, and supplied them with the surplus productions of our generous soil. Our commerce flourished, and with it our agriculture; the whole community was in a state of unexampled prosperity; our wealth augmented, and, in proportion to it, our pride, our luxury, our habits of extravagance. To property of every kind an ideal value was attached; airy castles were erected; the wildest speculations were made, founded upon the continuance of those halcyon days; the mania was universal, involving in its influence the most discreet and prudent calculators. How forcible the contrast! What an awful lesson of the limited foresight and indiscretion of man! Peace to others was fatal to our fairy views of aggrandizement. The armies of Europe were disbanded; the arts of peace resumed; their lands were cultivated, and yielded abundant harvests; meeting with the protection of their Governments, we were not permitted to compete with them, and a demand no longer existed for our surplus products; an awful stagnation in business ensued, affecting every class of society. Such was our situation when we were compelled ourselves to resort to war to defend our honor and our rights.

The rising greatness of America, the evidence afforded to the world of man's capacity for self-government, and the example of a free Government, promoting and protecting all the blessings of civil liberty, have been viewed with the deepest concern and jealousy by monarchs trembling on their thrones at the success of our experiment. Occasions were sought to retard our rapid strides. They dared to attempt to cripple us—the result was brilliant and glorious to us in the extreme. War, in its most favorite aspect, however just and necessary, is attended with its train of evils; our pecuniary difficulties were increased. Necessity is said to be the mother of invention, and, to relieve us from embarrassments, a remedy was resorted to infinitely worse than the disease. The establishment of banks was suggested and adopted as the grand restorative. Their delusive operations served as a temporary opiate. This bubble, however, at length also burst, and drew in its train innumerable evils, leaving a heavy mass of debts unredeemed and irredeemable; property fell as far beneath as it had risen above its just and customary level. Hence the embarrassments and wretchedness of many of our citizens, and their inability to meet their engagements. There is a remaining consideration on this branch of the subject to which I must allude. The policy of our Government, in failing to protect the infant manufactures of our country, was severely tested during the late war; the actual want of, and dependence upon our enemy even for the clothing of our soldiery, was experienced. To remedy those evils, and with a prospect of permanent utility and profit, capital to an immense amount was invested in the establishment of domestic factories. Upon the return of peace, they were abandoned

by their country, and the proprietors were unable to struggle and compete with the efforts of well established and powerful rivals, aided by all the power, wealth, and influence, of their Governments. The consequence was, our country was inundated with British goods at uncommonly reduced prices, and our own establishments yielded to the pressure—another and a fruitful source of the wretchedness of a most meritorious and numerous class of society.

But, Mr. Chairman, could we be permitted to look into the vista of futurity, and behold the high destinies of this Republic, stretching its protecting arms and extending the influence of its Constitution and its laws to its free and happy citizens scattered through its vast regions from the Atlantic to the Pacific ocean, engaged in social intercourse, and conducting their increasing commercial operations, facilitated by internal improvements, the necessity of uniformity in our laws would still be more apparent. Witness, already, the gigantic and successful efforts of our sister State, New York, exerting all her efforts to open a new vein or canal, through which the blood will shortly circulate, from remote extremities, to her city—the present heart of our political body—connecting, by that single operation, the unbounded resources of the Western with the Eastern portion of our Government. Yes, combining and concentrating our feelings and our interest, mutually contributing to the strength and prosperity of each, giving impulse, activity, and motive, to millions of intelligent beings, who will hereafter populate the towns and cities with which the lakes, our inland seas, will be adorned, and who, in their turn, will demonstrate the will of Heaven by connecting those lakes with nature's grand canals, the Mississippi, the Missouri, and Ohio; thereby producing effects as powerful and as natural as gravity itself. Our diversified relations and internal commerce must, of necessity, be greatly augmented by the increasing facilities of regulating and conducting them, and that change of policy which is indispensable to the prosperity and independence of our Government. Yes, America is destined not only to be a land of liberty, but really independent of every other portion of the globe. Embracing as she does within her unquestionable limits, a generous soil and genial climate, her productions are unlimited, affording every thing essential to the sustenance and luxury of man; furnishing the raw material, for every purpose, in profuse abundance; the inventive and mechanical powers of our citizens will be exerted in their preparation, not only for our own, but the consumption of others. Our Government must and will hereafter foster and protect our national industry; our wants will be supplied by mutual interchange; our interest will be amalgamated; our union and our happiness insured; our friendly relations will be naturally extended to our brethren of the new world, exhibiting their native excellence and importance, and our commerce settled down with them upon the solid bases of reciprocal justice and equality, thus completing the circle of our happiness and prosperity. Policy may hereafter dic-

H. OF R.

Military Appropriations.

FEBRUARY, 1822.

tate to our Government the collection of our revenue from internal taxation. If so, would not the uniformity of our laws, as to the consequences of the inability of our citizens to meet the demands of Government, in this respect, be greatly desirable. The practice and experience of other commercial countries, particularly England, certainly furnish a strong argument in favor of the measure. Since the time of Henry VIII., until the present day, a bankrupt system has been considered indispensable to the prosperity of that great commercial nation. The examination before a committee of the House of Commons, so triumphantly relied upon by gentlemen in the opposition, only proves that, after hearing every thing that could be said against it, the British Parliament, guided by the facts and opinions of practical men, determined to adhere to the system.

But, say gentlemen, it seems there were no important dividends under our former law; therefore the system is objectionable from our own experience. This fact admitted, it is honorable to the mercantile class, and only shows the extreme reluctance with which they acknowledge their insolvency, and that they took refuge under the provisions of the law, after all their means were really exhausted.

I shall conclude, Mr. Chairman, by returning my thanks to this honorable Committee for their flattering attention, and expressing the hope that they will refuse to strike out the first section of the bill, and cordially unite in perfecting its details, under a belief that now, if ever, is the accepted time for the interposition of the General Government. Its former course renders it an act of justice, and it is demanded by its magnanimity and future policy.

When Mr. WOODSON had concluded, he was followed by

Mr. LOWNDES, in favor of the motion, who occupied the floor till nearly three o'clock; when, on motion of Mr. NELSON, of Virginia, the Committee rose, and had leave to sit again.

MILITARY APPROPRIATION BILL.

The House resumed the consideration of the bill making appropriations for the military service of the United States for the year 1822; and the question which was depending yesterday again recurred, to wit: to concur with the Committee of the whole House on the state of the Union, in their amendments to the said bill.

Mr. TRACY remarked that the rapid manner in which the bill had passed through the Committee must be his apology for not presenting, at an earlier period, the objections that now occurred to him to the final passage of the bill. He had remarked, on a former occasion, that he was disposed to think that greater amounts would thereafter be called for than were contemplated in the report of the Secretary of the Treasury. On a cursory inspection of the documents that had been so recently laid on our tables; there was, unless the short time allowed him had led to mistake, an essential difference between the appropriations included in the bill on the table, when taken in

connexion with the other appropriations that must be inevitably called for during the course of the session, and those estimated in the report of the Secretary of the Treasury; and he went into a detailed view of the subject to show the correctness of his position, and that the bill included a sum greater by \$500,000 than had been estimated to be necessary in the report of the Secretary of the Treasury.

Mr. SMITH, of Maryland, was somewhat surprised that the gentleman from New York should have found by *intuition* such very correct and detailed information on the subject, and brought that intuitive perception of figures and estimates together in a manner, (and that, too, without time to examine them,) so perfectly calculated to defeat the bill. Mr. S. explained the views of the committee at some length, and observed that the Committee of Ways and Means were influenced in making their report less by the estimates of the Secretary of the Treasury, than by the existing laws of this Government, which required distinct and definite appropriations to the full extent of the amounts proposed in the bill.

Mr. TRACY rejoined, and said that the estimate of the Treasury Department had reference to the sum total of the expenditure, and of course had nothing to do with the unexpended balances which could not in his view be with propriety superadded to the amount reported by the Secretary of the Treasury.

Mr. SMITH remarked that the difficulties of the gentleman from New York would probably vanish, by reflecting that the Secretary of War was different from the Secretary of the Treasury; and he thought the gentleman had unfortunately blended them, for that the requisition of the former was in a good degree made through the latter.

Mr. BALDWIN observed, that he had never known a bill like the present to have been pressed through the House in the manner in which this had been done. The estimates of the Secretary were in the hands of the printer, and we are called on to pass a bill to which those estimates relate, and after the passage of which they will be entirely useless. Mr. B. went into a detailed view of the subject to show that this appropriation exceeded the estimates by five or six thousand dollars. Was it not then worth a day or two's consideration? and this, too, at a time when there were actual, not to say acknowledged, deficits? Mr. B. extended his remarks to a considerable length, and concluded by calling for the yeas and nays on the question of concurrence; which were thereupon ordered.

Mr. McDUFFIE said it would be admitted that this was an ordinary appropriation for the standing establishments of the country. He thought, therefore, the House might safely pass the bill, without being alarmed by the statements that had been made in respect to the revenue of the country. The danger that had been portrayed, he thought, arose from the peculiar circumstances and train of thought and feeling in which the gentleman from Pennsylvania (Mr. BALDWIN) had been placed. He said it was but fair and

FEBRUARY, 1822.

Vaccination.

H. OF R.

correct to place some confidence in the reports of those heads of Departments to whom the project was peculiarly confided; and he was perfectly satisfied that there would be more than two millions found in the Treasury at the close of the year; and to establish this opinion, he referred with particularity to the reports and estimates already presented to the House by the Treasury Department. He contended, from the documents before the House, it was evident that, instead of there being a balance floating in the air, as the gentleman from Pennsylvania (Mr. BALDWIN) had yesterday described, it was actually in the Treasury, or secured to entire and perfect satisfaction. The difficulty he explained to be in blending the revenues and disbursements of the different years. The balances of one year were to be weighed and off-set by the balances of the next, &c.

Mr. BALDWIN wished for a tangible statement; for it would be found that when the question of appropriation was up, revenue would be one thing, and when the tariff was up, revenue would be another. He thought if any perturbed spirit was allowed to rise from the nether world, and haunt and disturb the repose of the living, it was that of the tariff. If he (Mr. B.) went into the lobby to smoke a cigar, the question was—how goes the tariff? If he rode through the avenue, he was assailed from the right hand and the left—how stands the tariff? If any other person on that, or on almost any other question, should ask for a day or two delay, it would be granted—unless the tariff is interposed. Mr. B. replied to the remarks of Mr. McD. at considerable length, and expressed an anxious hope that the subject would be more fully examined, and at all events he begged the House to believe it was possible that other than the sickening subject of the tariff could occupy his mind, in respect to sentiments and propositions he thought it his duty to advance.

Mr. CAMBRELENG moved to postpone the further consideration of the subject until Monday next; which motion he subsequently withdrew; and, thereupon—

Mr. CANNON moved to lay the bill on the table. He would, at all times, be willing to appropriate the sum of money which the public service required, but he thought the House was not at this time prepared to say how much was requisite for that object. There was a bill before the House for a reduction of the Military Establishment and the reorganization of the Army, and he thought this bill should be postponed—especially that part of it which relates to the Military Establishment, until the sentiments of the House could be expressed on the other. He believed the people of the United States would not be disposed to support a Military Peace Establishment by taxation. It was therefore expedient first to ascertain whether we could support such an establishment without taxation, before we proceed to appropriate. With him it was not a question of revenue, but a question of expenditure for military purposes.

Mr. BUCHANAN thought the discussion was going wide of the question before the House.

This was a bill that was calculated to provide for the payment of debts already created by law. We had enlisted soldiers, and were bound to pay them. It was not now a question of policy, but the performance of an act of common justice. The faith of the Government was pledged to pass the bill. An appropriation was not a subject of legislative discretion. When a motion for repeal should be made, that discretion would be properly called into exercise. He was therefore ready to pass the bill, and was opposed to laying it on the table.

Mr. WALKER, of North Carolina, then moved that the House adjourn; which was carried—ayes 75, noes 67. And thereupon the House adjourned.

FRIDAY, February 22.

Mr. GIST presented a petition of sundry inhabitants of the State of South Carolina, praying that that State may be divided into two federal districts, and that a separate district court may be established in each; which petition was referred to the Committee on the Judiciary.

Mr. SERGEANT, from the Committee on the Judiciary, to which was referred the amendment proposed by the Senate to the bill, entitled "An act for the apportionment of Representatives among the several States according to the fourth census," reported, that the committee had considered the said amendment, and recommended that the House disagree thereto. The bill and amendment were laid on the table.

Mr. SERGEANT, from the same committee, to whom the subject has been referred, reported a bill altering the time and place of holding the district court in the district of Mississippi; which was read and ordered to lie on the table.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to which was referred the bill from the Senate, entitled "An act for the relief of John Holmes," reported the same without amendment; and the said bill was committed to a Committee of the Whole.

The House proceeded to consider the resolution submitted by Mr. COCKE, yesterday; and the same was modified, by the consent of the mover, and agreed to, as follows:

Resolved, That the President of the United States be requested to cause to be laid before this House a statement showing the amount of woollens purchased for the use of the Army of the United States during the years 1820 and 1821, comprising a description of the articles; of whom the purchases were made; at what prices; and what proportion thereof was of American manufacture.

VACCINATION.

Mr. FLOYD, from the Committee appointed to inquire whether it is necessary to make any modification in the law passed in the year 1813, entitled "An act to encourage vaccination," made a detailed report; which was read, and the resolution therein submitted was concurred in by the House, and two thousand copies ordered to be printed for the use of themselves.

The report is as follows:

The committee to whom was referred the resolution of the sixth instant, directing them to inquire whether it be necessary to make any modification of the law passed in the year 1813, entitled "An act to encourage vaccination," have had the same under consideration, and report :

That the committee have not deemed it necessary to report the various reflections which have presented themselves upon the subject of vaccination, but feel a confidence in the belief, that the opinion heretofore entertained of its being a preventive of the small pox is well founded, and believe it one of the greatest benefits bestowed upon the country, and one which ought to be cherished by every citizen of the Republic.

They are aware that a disease, called by medical gentlemen varioloid, has, within a few years past, made its appearance in Europe; that it much resembles the small pox; and, under similar circumstances, has been as fatal as that disease ever was; none are exempt from its influence, neither those who have had the small pox, nor yet those who have been exposed to the influence of the vaccine; but it is gratifying to find that the weight of authority seems to favor a belief, that all those exposed to the infection of the latter suffer much less than any others.

The committee have seen, with pain and regret, the occurrences which have lately transpired in the State of North Carolina, where the physicians in that part of the country believed the small pox to exist. These occurrences were of such a character as to claim their attention, particularly as the United States' vaccine agent, appointed pursuant to the provisions of the act referred to in the resolution, seemed to create a doubt as to the efficacy of vaccine in the prevention of small pox, and left the impression equivocal, whether it was not his belief that it was the varioloid disease in North Carolina, produced by some change in the vaccine matter whilst on its way to a physician in that State, to whom he had sent it, or whether it had not assumed that character from the circumstance of the small pox epidemic in the neighborhood from whence it was sent. They have forbore to remark upon that transaction, as the vaccine agent has since ascertained, and acknowledged, that it was the genuine small pox matter he had sent to North Carolina, through his own mistake, which at once relieves the fears of those who doubt the efficacy of the cow pox, if there are any such, and dissipated the mist which hung over the subject, in the opinion of all who did not doubt.

It is proper to remark, that the disease called varioloid seems to partake more of the character of small pox than of vaccine, and that there is no fact, within the scope of their inquiry, to induce the committee to believe that vaccine ever has degenerated into varioloid. It is unquestionably true, that instances have occurred where persons have taken the small pox, after having the vaccine, though such instances are as uncommon as it is for persons to take the small pox a second time.

The tranquillity of settled belief has been disturbed by allusions to the difficulty of securing the continuance of genuine matter, though no doubt is entertained by your committee that proper attention will overcome every obstacle of that kind, eradicate every evil, and, finally, triumph over prejudice itself. Some reproach may have been brought upon vaccination, not, however, the result of any well-founded doubt as to its efficacy; but from the ignorance or carelessness

of those who have used it, as it is well known that many benevolent persons throughout the community have taken upon themselves to vaccinate their friends and others, and, doubtless have done much good; but if, in the progress of time, by want of care, the matter shall have become spurious, there is not adequate experience to detect the change, and, consequently, some risk of exposing the person to small pox, thereby bringing danger to the sufferer, and unjust reproach to the cow pox. This kind of inoculation done by every individual who feels charitably inclined, if with care, is not disapproved of; though they are decidedly of opinion, that it would be much better to trust it to the judgment and care of the medical gentlemen of the country.

The committee have deemed it not irrelevant to state a few prominent facts in regard to the effects of these diseases in different countries, which will more clearly show the progress of opinion, and the advantages of vaccination. In the first place, it is proper to state, that there is authority for estimating the deaths in the natural small pox at one in six; and, though a more intimate knowledge of that malady, together with any benefit arising from inoculation, may have put it more in the power of physicians to control it, yet, in Great Britain, where vaccination is less attended to than in some other European countries, fifty thousand persons are annually destroyed by it. But, even there, by vaccination, all agree the waste of human life has been lessened. It not only secures the person from the small pox, but greatly lessens the danger to be apprehended from the varioloid disease, as may be seen by reference to highly respectable authority, which states that, at Millau, in France, containing about eight thousand inhabitants, two hundred vaccinated persons took the varioloid disease, and every one recovered, whilst two hundred persons who had not been vaccinated were destroyed.

In Denmark, by the care which the Government has taken to cause the people to vaccinate, the small pox no longer exists. This remedy was introduced into that country about the year 1800, by laws which were vigilantly enforced. By these laws, it was ordered that no person should be received at confirmation, admitted to any school, bound apprentice to any trade, or married, who had not been vaccinated, unless they had undergone the small pox. A just idea may be formed of the benefits which have resulted to Denmark—a country where the preservation of human life is more the object of governmental care and solicitude than almost any other—when it is known that the city of Copenhagen alone, during the twelve years preceding the introduction of the vaccine, lost by the small pox five thousand five hundred of its inhabitants. In the year 1805, not one death occurred in the whole Danish dominions from the small pox. Prussia has made many wise regulations favorable to vaccination, which have produced highly beneficial results. Formerly, the small pox was believed to destroy about forty thousand persons annually in that kingdom. In 1817, by this mild and entirely safe remedy, the deaths were reduced to two thousand nine hundred and forty, so that the proportion of deaths from small pox to those from all other causes, had been reduced from one in seven, down to one in one hundred and four.

It is believed that the principality of Anspach, in Bavaria, containing a population of 236,406 individuals, lost five hundred annually in 1797, 1798, and 1799; and, in the year 1800, there perished one thou-

FEBRUARY, 1822.

Military Appropriations.

H. OF R.

sand six hundred and nine persons of that disease; but, so clear and distinct have been the effects of vaccination, that, from the year 1809 to the year 1819, only five cases have occurred, and not one death.

In France, prizes are given to the surgeons who have annually vaccinated the greatest number of persons.

In Lombardy, in the year 1808, in Milan and Geneva, vaccination was believed to have extirpated the small pox.

If the statements of intelligent travellers ought to be taken as evidence upon a subject of this kind, there can be no doubt that vaccination has operated the same beneficial effects in South America which it has done in Europe; and the journals of our own country bear testimony to its great and increasing good throughout the Republic.

The committee have viewed, with attention and concern, the promulgation of opinions tending to lessen the just confidence of the community in the efficacy of vaccination, from the circumstance of there being present slight affections of the skin, ulceration, or vascular disease. They will not undertake to decide what may be the effect of diseases of this character upon the result of vaccination, when they have affected the constitution of the individual, but think it doing no violence to the opinions of those who have adopted such, to consider them as a class distinct from the mass of the community. They are inclined to believe that the constitution of the individual vaccinated, with other causes, may vary the appearance of the disease in some degree, but not to change its character; to do that, there would be partial causes, easily detected and easily understood.

The committee, from all the reflection which they have been able to bestow upon the subject, are of opinion that no modification of the law is necessary, as its provisions put it amply in the power of those intrusted with the execution of it to punish abuses whenever any exist. They therefore recommend the adoption of the following resolution:

Resolved, That the committee be discharged from the further consideration of the subject referred to them by the resolution of the 6th instant.

REVOLUTIONARY PENSIONS.

The House then resolved itself into a Committee of the Whole on the bill supplementary to the acts to provide for persons engaged in the land and naval service of the United States in the Revolutionary war.

Mr. COCKE explained the general object of the bill, which was to re-establish the law, on the ground on which it was supposed to stand prior to the opinion that had been given by the Attorney General. He referred to the particular provisions of the bill for its further explanation, &c.

Hereupon, arose a conversation on the bill, in which Messrs. SMITH, of Maryland, REID, CHAMBERS, STEWART, and WOOD, took part.

In the end, Mr. WOOD moved to strike out the first section of the bill, and, in lieu thereof, to insert the following:

“That the Secretary of War be, and he hereby is, authorized and empowered, in all cases where a defective schedule has been, or shall hereafter be, exhibited to him, under the act, entitled ‘An act in addition to an act, entitled ‘An act to provide for certain persons engaged in the land and naval service of the Uni-

ted States in the Revolutionary war,” passed May 1, 1820; or where, upon any schedule exhibited, or hereafter to be exhibited to him, under the said act, he shall have stricken, or shall hereafter strike, the applicant from the list of pensioners, to receive a new schedule or schedules, supplying any such defect, or exhibiting new or additional evidence; and if, upon the exhibition of such schedule, the Secretary of War shall be satisfied that the pensioner ought to be restored, he shall be, and hereby is, authorized and required to restore him; or, in place of an original application, to place him on the pension roll.”

Whereupon, the Committee rose and obtained leave to sit again; and the amendment was ordered to be printed.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting the several reports made by the commissioners appointed to view and inspect the Cumberland road, with the evidence and correspondence in relation to the case of Colonel Moses Shepherd; which letter and reports were ordered to lie on the table.

MILITARY APPROPRIATION BILL.

The House then resumed the consideration of the unfinished business of yesterday—the Military Appropriation bill.

Mr. CHAMBERS, of Ohio, moved to recommit the bill to the Committee of Ways and Means, with instructions so to modify the same as to limit it to such appropriations as are indispensably necessary. He said that it was, at all times, with great diffidence he intruded his views or wishes upon the House. His inexperience in the business of legislation, having now for the first time the honor of a seat in the National Councils, was a sufficient reason. He wished, however, to discharge the duties of a Representative faithfully and honestly, and while he was ready to accord every reasonable support to the operations of the Government, still he wished to act prudently and understandingly. He did not wish to withhold any necessary supply—but, if now called on, as the House had been, to vote upon the passage of this bill, he must vote against it, and this he wished to avoid. Many of the appropriations were really wanted. As to the bill, generally, if he now voted for it, he must take it upon trust—he would have to confide in the opinion of the chairman of the Committee of Ways and Means, for whose opinion he had the highest respect. But he wished to be satisfied himself; he was not disposed to take any thing on trust. In this way only could he do his duty faithfully. It was well known that a large portion of the House were new members; to many of whom it might be desirable to have time to reflect and form their opinions on the items of this bill. Mr. C. confessed he was ignorant on many points on which he ought to be better informed. This was his misfortune, and not the fault of the House. He had not been so fortunate as to understand every thing at once, as it were by intuition. He found that it required a good deal of attention to understand the meaning and effect of unexpended balances of appropriations—changing balances of the last year on the revenue of the next—your surplus fund,

H. OF R.

Military Appropriations.

FEBRUARY, 1822.

&c. When he heard a change rung upon these high-sounding terms he was astounded. To be sure, he thought it sounded something like rattling the dollars upon the counter, and he could hardly suppose that all this was wind-work. But, after a little reflection, he finally understood these unexpended balances of appropriations are really not in the Treasury; they are only imaginary sums, which are tangible when you can catch them. He found that appropriations were one thing—and that supplies, or the means and money which are to meet those appropriations, were another thing—and which it was our indispensable duty to provide. Mr. C. declared he was clearly for cutting down our expenditures to our present means. He would lay no additional burdens on the people for any purpose whatever, short of actual war. He believed there was at present a sufficient revenue raised from the people of this country for the reasonable expenses of its Government, if properly managed. It was the business of the Representatives of the people to see that it is so managed.

He further remarked, that the bill had, so far, taken a very extraordinary course, and, in self-defence, he was compelled to make the present motion, as the only means whereby he could expect to have the subject so modified as to be acceptable. It was well known that, before this bill had become dry, we had passed it through Committee of the Whole, filled the blanks with such sums as were required, in the opinion of the Committee, and which, together with unexpended balances amount to upwards of four millions of dollars, which we are now pressed to vote away without further consideration. A bill making partial appropriations for a part of the objects contained in the present bill, was laid upon our table at an early period—objections were raised—information was called for—that information has been received, and the bill is suffered to sleep, while the one now on the table is to supersede it. The present is not a general appropriation bill, nor yet a partial one, strictly speaking. It is full, so far as it goes, but it contains no provisions for the Indian department, the Ordnance department, or fortifications. It is of a singular character, as he did not know why the particular objects of this bill were selected to be acted upon at present, unless it were to palm upon the House such subjects as were favorable to the views and wishes of the Committee of Ways and Means, shut the door to the various projects of retrenchment, and other subjects yet depending before the House, commit themselves by the passage of this bill, and then squabble about the residue as they could. He hoped the bill would be recommitment, &c.

A debate ensued hereon, in which Messrs. FARRELLY, RANDOLPH, SMITH, WILLIAMSON, COCKE, BUCHANAN, WRIGHT, and F. JONES, participated.

Mr. NELSON, of Virginia, then moved to amend the amendment proposed by the gentleman from Ohio, (Mr. CHAMBERS,) by striking out the special instructions to the committee. The ground was stated by Mr. N. to be, that he thought the course adopted by the Committee of Ways and Means a departure from precedent. It had been

usual for that committee to report either general or partial appropriation bills—but this was neither. It was rather a general appropriation bill split into parts, all of which ought, in his opinion, to be brought together.

A debate arose on this motion, in which Messrs. STEWART, RANDOLPH, EDWARDS, of North Carolina, SMITH, and FARRELLY, took part.

Mr. STEWART, of Pennsylvania, said, that he felt constrained to say a few words, for the purpose of bringing into the view of the honorable gentleman from Virginia, (Mr. NELSON, who had just taken his seat,) and of the House, an amendment which he intended to offer, if the motion to recommit did not prevail; by which he thought the objections to the bill, as well as the necessity for recommitment, would be superseded; and the bill, he hoped, would be suffered to pass; for he thought it incompatible with justice, and with the dignity of the House, any longer to withhold from the officers of the Government the means of discharging the demands which were daily presented, and pressed upon them. The amendment, Mr. S. said, which he proposed offering, was to reduce the amount of the appropriation for pay and subsistence from \$900,000 to \$400,000, and that of the Quartermaster's department, for contingencies, &c., from \$300,000 to \$200,000; leaving a sum amply sufficient to meet all existing claims, and if it should be found insufficient, after we have passed upon the reduction bills, &c., the amount can be easily increased in the general appropriation bill.

Sir, said Mr. S., the sum appropriated by this bill, including the unexpended balances, exceeds four millions of dollars, and this is but a partial appropriation for the Military Establishment; there still remains \$1,411,000 to be provided hereafter making an aggregate of \$5,165,896, exclusive of the unexpended balances of last year, amounting to several hundred thousand dollars. This sum exceeds, by more than half a million, the amount required for the same objects last year. The whole amount required by the estimates for the Military Establishment for the last year was, \$4,585,352; for the present year, \$5,165,896, deducting the unexpended balances both years, leaving a difference of \$580,544; what causes had produced this difference, he did not pretend to say, but merely stated the general result.

When we advert to the embarrassed situation of our finances, said Mr. S., our income unequal to our expenditures, with a large national debt, we should proceed cautiously in making appropriations, and while we appropriate what is necessary for one object, we should be careful not to run into extremes as to others—to avoid this he had suggested this amendment; and in selecting two particular items, he had been influenced by several reasons, one or two of which he would mention; the first was, because it was upon these branches of expenditure that the plan of reduction proposed would operate, if it took effect, so as to render a very considerable portion of the amount proposed in these items unnecessary; and, secondly, because in the other items it appears, from the estimates, that there are generally unexpended balances at

FEBRUARY, 1822.

Transactions at Pensacola.

H. OF R.

the end of the year showing that the expenditure is regulated by some fixed rules. But not so with respect to those which he proposed to reduce; the expenditure in the latter case was in a great measure contingent, composed of "transportation, rent, repairs, postage, courts-martial, fuel, extra pay, contingencies," &c. One contingency, it appeared, always happened to this department, which was, that the amount of the appropriation was expended, and generally more; last year they overran the appropriation—seventy-six thousand dollars. And appropriate the whole sum required, and afterwards reduce the Army as you please, there will be accounts for "extra pay, contingencies, and fuel," enough to consume it to the last dollar, before the end of the year.

But we are told, said Mr. S., by several honorable gentleman, that it makes no difference how much we appropriate; that should we grant the whole amount asked for, and afterwards reduce the Army as proposed, that the money would not be expended. This argument, sir, may be good as respects so much of the amount as is expended according to a fixed system of rules. But, sir, it will not do when applied to those branches of the expenditures which are floating, loose, and unconfined, limited only by the discretion of the expending officer, who had always found it necessary to expend the whole amount appropriated. It was upon this branch he wished his amendment to operate.

Sir, the whole amount of the reduction proposed in this bill is only five or six hundred thousand dollars, and this could be restored hereafter, when the other appropriation bill comes up, if then found necessary; he could, therefore, see no reasonable objection to the amendment; he hoped the friends of the bill would agree to it, and the bill pass without further delay, by which the officers of Government would be enabled to satisfy the crowd of claimants by whom they were surrounded, demanding their pay; and which it would, in many instances, be cruel and unjust any longer to withhold.

The question was now taken on the amendment, and decided in the negative.

The question then recurred upon the original motion submitted by Mr. CHAMBERS.

Mr. PLUMER, of New Hampshire, moved to divide the question, and thereupon it was first taken upon a recommitment generally without instructions, and decided in the negative—ayes 50.

Mr. RANDOLPH then moved to postpone the further consideration of the subject until Monday next.

The question was taken and decided against postponement—ayes 59, noes 74.

The question was then stated to concur in the first amendment reported by the Committee of the whole House on the state of the Union; whereupon, the House adjourned.

SATURDAY, February 23.

Mr. NEWTON presented a petition of Henry Aberdeen, a free man of color, master of a

schooner employed in the coasting trade of the United States, stating that owing to a recent construction of the act regulating the enrolling and licensing vessels employed in the coasting trade, he, as well as all persons of his description, are debarred the right of owning or commanding a vessel, on the ground that they are not citizens of the United States; and praying such relief in the premises as may be just and proper.—Referred to the Committee on the Judiciary.

Mr. CAMPBELL, of Ohio, from the Committee on Private Land Claims, made a report on the petition of Susan Berzat, accompanied by a bill for her relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. NEWTON, from the Committee on Commerce, reported a bill to continue in force an act, entitled "An act declaring the consent of Congress to acts of the State of South Carolina, authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports; and to acts of the State of Georgia, authorizing the imposition and collection of a duty on the tonnage of vessels in the ports of Savannah, and St. Mary's;" which was read twice, and committed to a Committee of the Whole.

TRANSACTIONS AT PENSACOLA.

Mr. EUSTIS, from the Committee on Military Affairs, requested to be discharged from the further consideration of the petitions of Marcus de Villiere and Arnauld Guillemard, (who pray the interposition of Congress to release them from prison in Pensacola, where they are confined by the acting Governor of West Florida;) and moved also that the petition, together with the accompanying documents, be referred to the President of the United States.

Mr. COCKE remarked, that, from an examination of the petition and documents referred to, there was reason to apprehend there had been such a usurpation and infringement upon the rights of the petitioners as required the interposition of the House. He therefore moved that the petition be referred to a Committee of the whole House on the state of the Union.

Mr. LOWNDES thought the petition afforded an additional reason for giving more promptly a government to Florida, yet he was unwilling that such complaints should reach the Executive ear through the channel of this House. Indeed he considered it altogether probable that those complaints had already reached the Executive. He therefore thought the reference proposed by the Committee on Military Affairs unnecessary, and the proposition of the gentleman from Tennessee (Mr. COCKE) improper; and, under these impressions, proposed that the same should be laid on the table.

Mr. TRIMBLE rose to put a question to the chairman of the Military Committee. He wanted to know whether the petitioners were confined under a military order, or in virtue of some civil judicial process? If the confinement was by military order, he was satisfied the President, as commander in chief of the armies of the United States, could

order their discharge; but if confined in virtue of civil process, then he did not suppose that the President had any power to interfere. The act of last session gave the President power to appoint a Governor in the Floridas, but it did not authorize him to reserve to himself any control over the judicial acts and proceedings of the Governor when appointed. There was no such reservation in the Governor's commission. The President had, it was said, given ample powers to the Governor. They were said to be the same or equal to those vested in the Captain General of Cuba; and Mr. T. could not vote the reference of a petition to the President, as an intimation to him to assume a sort of supreme judicial power over that territory, without being first satisfied that a controlling power of that kind ought to be vested in him, either directly or indirectly.

Mr. COLDEN entered at some length into an examination of the facts connected with the case of the petitioners; and was proceeding to a discussion of the merits of the commitment of the petitioners to prison; when a question of order arose, which resulted in the SPEAKER'S pronouncing that the first question, and the only one of course now before the House, was on discharging the Military Committee from the consideration of the petition.

Mr. EUSTIS explained the views of the committee in recommending the course they had thought it expedient to adopt, the main object of which was to procure the liberty of the petitioners, if they were entitled to it, in a manner more expeditiously than they could obtain it from the interposition of this House.

Mr. LOWNDES further explained his views in making the motion to lay the subject on the table.

Mr. FLOYD could not conceive any powers which the Captain General of Cuba could have, or any Secretary of the Territory of Florida could have, to violate the liberties of those who should fall within their jurisdiction. Here were men lingering in confinement—and we were not now, he said, deliberating at the point of the bayonet, but in peace and safety deciding whether or not to lay the petition on the table. The man who could have the temerity in this House to lie by supinely on such a subject, may well tremble should he happen to be within the power of another Government. He was opposed to any delay, and thought it a subject that required the immediate interference of the House.

Mr. RANDOLPH thought this House could not, without a gross violation of its duty, turn a deaf ear to any man who says he is in bonds against law, and under our authority. It was not for us to sit here with stoic apathy, under circumstances like the present. It was worse than mockery to turn over the subject to the President of the United States, who is known, if not to approve, yet not to disapprove, of the conduct of the Captain General of Florida. The Congress sat here as the guardians of law and liberty. Were we asked whether we could not yield our confidence to the Executive? He answered, No; for that personage was surrounded by a multitude of counsellors, in whom there could not be wisdom—for, like Ish-

maelites, the hand of each was raised against his brother. He disclaimed any personal hostility to any of the members of the cabinet—of one of whom he knew nothing, and for others of them he entertained a personal respect; but he repeated that, with such competitions and divisions as existed there, he would vote for no such reference.

Mr. WRIGHT thought it was not proper to refuse a reference of subjects that constitutionally belonged to the Executive Department, on the want of personal confidence. He believed it was inexpedient to travel out of the road, and get into a field not our own, when we had so much business of an ordinary character that required the immediate attention of the House. Mr. W. expressed his decided approbation of the conduct of the late Governor of Florida, whose conduct, he thought, entitled him to the warmest gratitude and admiration of his country. He also adverted to the delays that had been interposed by the Spanish commanders in surrendering that territory pursuant to the treaty, and the various expedients that had been resorted to, to create sedition and insurrection in that country, against the authority of the United States—which therefore rendered the performance of the duty of the Governor of Florida an arduous, critical, and delicate task, and which required promptitude and energy. He thought it was therefore proper that the papers should receive the reference recommended.

Mr. RHEA called for an explanation of the subject before the House, and for the reading of the petitions; after which he expressed his hope that the committee would be discharged according to their request.

Some conversation took place on points of order.

Mr. CONDIOT, to get clear of this subject, and the debate, moved to proceed to the orders of the day; which motion was negative—ayes 65.

Mr. COLDEN addressed the House to free himself from any imputation of being actuated by a feeling of hostility towards General Jackson, for Mr. C. remembered too well what this country owed to the gallantry of that man to feel any such sentiment. Mr. C. proceeded then to argue that the House could not dispense with inquiry in any case in which complaint was made to it; that, by the documents produced, enough was exhibited to establish a probability that a violation of personal rights had taken place, and to justify an exercise of the inquisitorial power of the House. He argued that these men had, by the treaty, become divested of their military character; that, if so, General Jackson had no right under the treaty to banish them from the province. If they choose to remain in the Territory, to select our institutions and soil, and forego their military character, could the treaty receive such a construction as to enable the Governor to say to them, no, you shall not become American citizens—you shall be banished hence? This proclamation was not justified by any law, nor by the treaty; it was an exercise of power without right. But there was another feature in the case, Mr. C. said, so gross that he should forfeit his character of a Representative of

FEBRUARY, 1822.

Transactions at Pensacola.

H. OF R.

the people not to express his dissent from it, both for himself and colleagues. These banished men come back—they are imprisoned, and when they ask to be liberated, the acting Governor says to them, you ought to be liberated—if Governor Jackson was here he would liberate you—but I cannot—there is no remedy for you. Could this be the fact, asked Mr. C. that there was no remedy for a case so oppressive? It seemed that the Governor, in his parting orders to Governor Walton, says to him, you must obey no laws and no orders other than those coming through me and delegated by me. How, asked Mr. C., could this injunction be reconciled with his character as acting Governor, by which all the powers of the principal devolved on him? Mr. C. put the question whether these men were to be left in prison and the House to say to them, there is no remedy for you—we leave you to your fate? Was it sufficient to say they have their resort against the officer, in the courts, and by the recovery of damages? There was no court there to which they could appeal. The Governor claims supreme judicial power, and would it not be a mockery to refer these men to the sub-Governor under such circumstances? What redress could the President afford? He could dismiss the officer, it was true; but any order sent there by the President, we have the best reason to believe, would not be obeyed by the acting Governor, for Governor Jackson has forbidden him to obey any that comes not through him. Mr. C. thought some expression of the opinion of the House ought to be given. If these acts are violations of our own feelings, our laws, and our principles—we ought to say to the world, this is not our act, but is the unauthorized act of an individual.

Mr. WRIGHT replied to the gentleman from New York, (Mr. COLDEN,) and contended that the return of the military officers of Spain was a violation of the treaty that had been made. And what security have we now for the tranquillity of that Territory, if those military officers can be authorized to make a show of departing according to treaty, and then return, in opposition to its spirit, and sow the seeds of sedition and revolt among the people? When General Jackson retired from the government of the Territory, the administration of its power reverted to the President of the United States. The reference to the Executive, therefore, was peculiarly proper.

Mr. WALWORTH believed that his respect for the liberty of the people was not less than that of any other member of the House; and when a proper occasion should occur, he trusted such a disposition would be made manifest. But he contended that it was necessary for the benefit of the petitioners that the subject should be taken up by a body more competent to do summary justice than this House. The laws under which those transactions took place would expire during this session, and it would be impossible for this Congress to make the requisite examinations so as to do justice to the laws of the country on the one hand, and the rights of the petitioners on the other. The committee supposed the President was competent

to give adequate relief, and that our Executive possessed the same relation to the Governor of Florida as the King of Spain had to the Captain General of Cuba. He had no objection to examine into the conduct of any military character, where the duty of the military committee (of which he was a member) called them; but the great objection was, that neither the committee nor the House had powers and facilities adequate to the giving of that prompt relief which the nature of the case seemed to require.

Mr. LOWNDES would not have risen again if the question had not assumed a new aspect since he made his motion to lay the report on the table. The petitioners, Mr. L. said, were now in jail, and if it was the wish of the House to give them relief, would it not be better to adopt that course which would afford it most promptly? As relief could be most speedily offered by the Executive, would it not be better, Mr. L. asked, to leave the subject to him? In adopting this course, the House would not abandon its inquisitorial character, but best fulfil it by affording the most expeditious redress which the case admitted. If, however, the House disapproved this course, let it at once put a period to a debate which appeared interminable, provide a government for the Territory of Florida, and put an end to this thirty days' tyranny, as it was called. Mr. L. expressed his disapprobation of the practice of going into debate on every trivial occasion—on every resolution or motion proposing no matter what, and dragging into review the conduct of officers, military and civil, when the investigation was not intended to be followed by any act or proceeding. These discussions were injurious, and, he thought, improper, where they were not meant to result in some act or some definite effect. Where this was not the intention, and where no new fact could be expected, what advantage could result from occupying time which was intended for practical and useful legislation?

Mr. STEWART was in favor of discharging not only the committee, but the House, from the further consideration of the subject. He thought the only question was, or should be, whether or not the subject-matter should not be recommitted to the Military Committee, to report the facts, in order that it might be seen whether it was a matter for the legislation of this House, or for the exercise of Executive authority. In this view it was merely a question of false imprisonment, and it seemed to be a matter to decide whether this House will resolve itself into a court to determine questions of that sort. And if they do determine to try such questions for the benefit of Spaniards, is it not equally proper, he asked, that we should decide similar cases among our own citizens? And if we are to decide cases of false imprisonment, is it not equally proper that we should undertake to try questions of assault and battery? He really thought it was a transposition of authority between the judicial and legislative departments, which was guarded against by the Constitution. It led, in his opinion, to a protracted and unprofitable discussion, in which all that had been said of Jackson and Callava, *ad id genus omne*,

would be brought into view, and all those angry passions which those matters seemed so fertile in producing would break out anew. He thought every principle therefore of justice and of policy required that it should be referred to the Executive department. It might also interfere with pending negotiations between this Government and Spain.

It was certainly unnecessary to go in quest of business. Our tables are already loaded down with the pressure of important business that comes within our especial province. There was the bankrupt bill, the tariff bill, the subjects of internal improvement, and various other matters of national moment, and of an imperious character, that demanded our attention. And why was it that General Jackson—an individual however deserving or otherwise—should occupy the attention of Congress, to the exclusion of the great and pressing objects of national concern? What importance was it to a country of ten millions of people, whether one citizen had been guilty of assault and battery upon another, or not? For these reasons he was altogether opposed to any further consideration of the subject, which gentlemen seemed to be disposed to prolong by presenting the merits of the case on the very question whether they shall be discussed or not by the House.

Mr. CHAMBERS replied to the observations of the gentleman from Pennsylvania, (Mr. STEWART,) and observed that, if this were a mere case of assault and battery, and false imprisonment, yet it was to be considered that there was in that Territory where the transaction complained of took place, no tribunal adequate to the protection of individual liberty, or indemnity for its violation.

Mr. COOK said, there were two questions for the House to determine—relief to the petitioners, and punishment of the offending officers. As to the question of relief, it was peculiarly referrible to the President of the United States. He adverted to the terms of the treaty, the powers of the officers appointed in Florida, and the circumstances attending the imprisonment of the petitioners, to show that the power to grant relief rested alone with the Executive—that he alone could grant reprieves or pardons, or dismiss officers. Congress cannot interfere with cases of the violation of law. They may repeal the law, or impeach the officer; but in a case of relief from a violation of law, it in the first instance was a case for the Executive interference, and not for Congress.

Mr. McDUFFIE thought the sound sense of the House would indicate the propriety of pursuing the course recommended by the Military Committee; and he feared that if the House were to act otherwise upon this subject, it must act upon it unwisely and injudiciously. What was the inquiry, he asked? Not whether our officers had acted incorrectly; but whether the subjects of a foreign Power have received from our officers an injury. And to whom is such application for redress to be preferred? To the Executive. It was

not to be disguised that there were difficult questions pending between this country and Spain, and that there was a disposition on the part of the agents of Spain to throw firebrands into the public councils, to distract the operations of this Government. They had already attempted to excite disaffection and disturbance in that quarter. He would admit there ought to be harmony in the Cabinet, and no man would go further than he would, to discountenance a spirit of division and distrust. But he was not disposed to change the ordinary channels in which business should proceed on the ground that the nation had not confidence in the Executive. He asked, if the gentleman from Virginia, (Mr. RANDOLPH,) in speaking of the loss of confidence in the Executive, did not mistake his own for the pulse of the House, and of the nation? What Administration, he would ask, had ever been fortunate enough to entitle itself to that gentleman's confidence? Or was it proper for the House to pay very great deference to the censures of a gentleman who had opposed every Administration? When it is so difficult, continued Mr. D., to preserve harmony among ourselves, it is at least desirable to exclude the effects of foreign disorganization and foreign influence. And what is there before the House as evidence on which to act, but *ex parte* statements of these petitioners; and this, too, to the exclusion of that testimony which the hold this Government has upon the duty and the honor of its own officers and agents presents to oppose it? And whose fault was it, he would further inquire, that the government of Florida was proconsular and tyrannical? Whose but our own? The government of Florida was an anomaly—a Territory of this Government; yet, inhabited by Spaniards. But, could a free government be adapted to the condition of slaves? A free government is only auxiliary to human happiness, when it holds its jurisdiction over a free people. Mr. McDUFFIE extended his observations to considerable length, upon the necessity that existed of erecting a form of government adapted to the genius and habits of the people. The Spaniards there could have no just ideas of civil liberty—of trial by jury, &c.; and it was the duty of the agent to examine his trust in the spirit of that government with which he was intrusted. If any blame rested anywhere, therefore, it must be on those by whom the government was organized. But, in reviewing the various circumstances, he thought we ought not to countenance a course calculated to produce distrust in our own Executive, and to lead the Spanish Government to believe that we would not sustain our own Administration.

Mr. REID (as well as he could be heard) spoke to show there was an impropriety in referring this petition to the Military Committee, but that its proper course would have been to the Judiciary Committee, as well from respect for the officers implicated, as to show to them that if their conduct had been improper it would receive no countenance in this House. He knew nothing of the circumstances but from hearing the paper read, but he felt much interest in the transaction, and

FEBRUARY, 1822.

Proceedings.

H. OF R.

he would not disguise that in this he had a feeling growing out of an intimacy with one of the parties concerned in this inquiry, of date as early as boyhood. He advocated a reference of the petition to the committee; and let the censure fall where it was merited. He was far from expressing any distrust of the President of the United States on this occasion, or in his proceedings in relation to Florida, but there was certainly no propriety in referring this matter to him. Where was the clause of the Constitution which referred such a case to the Executive and excluded this House from inquiring into it? If both are co-equal, on what pretence will the House answer these Spanish gentlemen that we cannot afford them redress? Was it because it would produce discussion? Whatever investigation of the subject or discussion might take place here, it would not deprive the Executive of the power to act and afford ultimate redress. How were these people attempting to throw firebrands in the public councils? Had they not been expelled from their firesides, from their homes, and finally thrown into prison? Was this a case of wanton or causeless appeal to the House? Mr. R. defended the act of last session, which, though passed in haste, was not intended to give the tyrannical powers imputed to it—not to confer the powers of a Spanish captain general of Cuba; and the first idea he had of such a thing was when he heard of the exercise of those powers; and heard of them, he said, with amazement. The people who had just emerged from a government of tyranny, were, by this construction of the act, thrown back into it. This was an effect never intended by Congress.

Mr. RANDOLPH made some remarks in explanation of his reasons for calling Mr. McDUFFIE to order, (which he had done from a misapprehension of that gentleman's meaning,) and his satisfaction with the explanation given. He had not the least disposition to carp at words used in the heat of debate, but the words used justified his construction of them. He ridiculed the idea of these poor Spaniards, kept under lock and key in Pensacola, throwing the brand of discord in the Cabinet—it needed no Guy Faux to execute such a gunpowder plot as that. In reply to the remark of the gentleman from South Carolina, (Mr. McDUFFIE,) that he had not supported any administration, he would merely say—though not to know that gentleman might argue himself unknown—yet he could say that, for more years than he had heard that gentleman's name, he was chairman of the Committee of Ways and Means of this House, and gave his best support to the then Administration. In reference to the proceedings on the Florida bill of last session, he, acting at the head of the Committee of Foreign Relations in consequence of the indisposition of the chairman, waited on the President and asked to know the views of the Executive—the bill corresponded with those views. He had never supported the bill of the last session. He was, therefore, exempt from any blame, personally, for the passage of it. Mr. R. went on at considerable length in reply to Mr. McDUFFIE, to vindicate his course on

this and on various other subjects, connected with the part he took in the public councils in years past. Mr. R. contended that it was perfectly competent for the House to order the discharge of the petitioners, as it had in the case of American citizens so held in imprisonment by the public officers, and between these persons and American citizens there should be no difference.

Mr. McDUFFIE replied at some length to Mr. RANDOLPH on those points of his remarks not particularly applicable to the question under consideration; and concluded with an argument to show that the Executive branch of the Government was the proper department to apply the petition for redress in the present case, which had been improperly addressed to this House.

Mr. HARDIN understood the import of the memorial to be, that the petitioners had been long citizens of Pensacola, and officers under the Government of Spain; that they departed from the territory pursuant to treaty, and returned as private individuals, for the purpose of revisiting the land of their nativity, and to enjoy their property. He denied the arbitrary powers which the gentleman from South Carolina (Mr. McDUFFIE) contended the Territorial government possessed; and was proceeding in his remarks, when he (it being after 4 o'clock) gave way for a motion to adjourn, which was agreed to—ayes 81; and, thereupon, the House adjourned.

MONDAY, February 25.

Mr. NEWTON, from the Committee on Commerce, to whom the subject had been committed, reported a bill to amend the act, entitled "An act to establish the district of Bristol, and to annex the towns of Kittery and Berwick to the district of Portsmouth," passed February 25th, 1801; which bill was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of James Pierce, accompanied by a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

Two Messages received from the PRESIDENT of the UNITED STATES on Saturday were read, as follows:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives "requesting the President of the United States to cause to be reported to this House whether the Indian title has been extinguished by the United States to any lands, the right of soil in which has been or is claimed by any particular State, and, if so, the conditions upon which the same has been extinguished," I herewith transmit a report from the Secretary of War furnishing all the information in the possession of that department, embraced by the resolution.

JAMES MONROE.

WASHINGTON, February 23, 1822.

The Message and accompanying documents were referred to the Committee on the Public Lands.

H. OF R.

Transactions at Pensacola.

FEBRUARY, 1822.

To the House of Representatives of the United States :

I transmit to the House of Representatives a report from the Secretary of State, with the documents accompanying it, in pursuance of a resolution of the House of the 17th January last.

JAMES MONROE.

WASHINGTON, February 21, 1822.

TRANSACTIONS AT PENSACOLA.

The House then proceeded to the consideration of the unfinished business of Saturday, and the question recurring to agree to a motion to discharge the Committee on Military Affairs from the consideration of the petition of the two Spaniards, imprisoned in Pensacola by the orders of the acting Governor—

Mr. HARDIN, of Kentucky, who was entitled to the floor at the hour of adjournment on Saturday, delivered his sentiments on the question, denying the constitutionality of the imprisonment of these men, and asserting the existence, in every Territory of the United States, of those rights which are, under our Constitution, reciprocal to local allegiance, viz: right to freedom of person, of religion, trial by jury, the writ of habeas corpus, &c. When Mr. H. concluded—

Mr. EUSTIS, the chairman of the Military Committee, stated that he was informed, from good authority, that the papers relative to the confinement of these men had been forwarded from Pensacola to General Jackson; that he had transmitted them to the President; that they were received in this city on Thursday last; that an order was issued for the release of the men on Saturday, and was actually despatched for Pensacola.

This statement was confirmed, in substance, by Mr. MERCER, of Virginia, who had also received similar information from undoubted authority.

Mr. COCKE stated that no such information had been before the Military Committee, when they had this subject under consideration.

Mr. LITTLE, seeing that the cause of the complaint of the petitioners was removed, moved to lay the subject on the table.

This motion gave rise to a debate, in which Messrs. TRIMBLE, LITTLE, RANDOLPH, LOWNDES, COLDEN, MERCER, RHEA, and FLOYD, took part. The debate, though on a motion affording, strictly speaking, a limited scope, was extended to considerable length, entering more or less into the merits of the case of these petitioners, and the propriety of effectual measures to guard against the recurrence of such imprisonments, &c., for the future.

No question was taken on the subject previous to the adjournment, which took place before four o'clock, on the motion of Mr. RANDOLPH, which motion, preceded by a pertinent speech, was founded on report, which had reached the Capitol, of the demise of Mr. PINKNEY, Senator from Maryland, which report afterwards turned out to be untrue.

Mr. RANDOLPH's remarks were as follows:

Mr. RANDOLPH rose, he said, to announce to the House a fact, which, he hoped, would put an end, at least for this day, to all further jar or collision, here or elsewhere, among the members of

this body. Yes, for this one day, at least, said he, let us say, as our first mother said to our first father—

“While yet we live, scarce one short hour perhaps,
Between us two let there be peace.”

I rise to announce to the House, the not unlooked-for death of a man who filled the first place in the public estimation, in the first profession in that estimation, in this or in any other country. We have been talking of General Jackson, and a greater than him is, not here, but gone forever! I allude, sir, to the boast of Maryland, and the pride of the United States—the pride of all of us—but particularly the pride and ornament of the profession of which you, Mr. Speaker, are a member, and an eminent one. He was a man with whom I lived, when a member of this House, and a new one too—and ever since he left it for the other—I speak it with pride—in habits, not merely negatively friendly, but of kindness and cordiality. The last time that I saw him was on Saturday—the last Saturday but one—in the pride of life, and full possession and vigor of all his faculties, in that lobby. He is now gone to his account, (for as the tree falls, so it must lie,) where we must all go—where I must very soon go, and by the same road too, the course of nature; and where all of us, put off the evil day as long as we may, must also soon go. For what is the past but as a span, and which of us can look forward to as many years as we have lived? The last act of intercourse between us was an act, the recollection of which I would not be without, for all the offices that all the men of the United States have filled, or ever shall fill. He had, indeed, his faults—foibles, I should rather say; and, sir, who is without them? Let such, and such only, cast the first stone. And these foibles, faults if you will, which every body could see, because every body is clear sighted in regard to the faults and foibles of others; he, I have no doubt, would have been the first to acknowledge, on a proper representation of them. Every thing now is hidden to us—not, God forbid! that utter darkness rests upon the grave, which, hideous as it is, is lighted, cheered, and warmed by fire from Heaven—not the impious fire fabled to be stolen from Heaven by the heathen, but by the spirit of the living God, whom we all profess to worship, and whom I hope we shall spend the remainder of this day in worshipping, not with mouth-honor, but in our hearts; in spirit and in truth—that it may not be said of us, also, “This people draweth nigh unto me with their mouth and honoreth me with their lips, but their heart is far from me.” Yes, it is just so. He is gone. I will not say that our loss is irreparable; because such a man as *has* existed may exist again. There has been a Homer; there has been a Shakespeare; there has been a Milton; there has been a Newton. There *may* then be another Pinkney, but there is now none. And it was to announce this event I have risen. I am, said Mr. R., almost inclined to believe in presentiments. I have been *all* along as well assured of the fatal termination of that disease with which he was affected, as I am now.

FEBRUARY, 1822.

Death of Mr. Pinkney of Maryland.

H. OF R.

And I have dragged my weary limbs before sunrise to the door of his sick chamber, (for I would not intrude upon the sacred sorrows of his family,) almost every morning since his illness. From the first I had almost no hope. I move you, sir, that this House do now adjourn.

When Mr. R. concluded, the question was taken on adjournment, and carried, *nem. con.*

TUESDAY, February 26.

After the Journal of yesterday had been read, in a part of which the fact of Mr. RANDOLPH's having yesterday announced the death of Mr. PINKNEY was stated—

Mr. RANDOLPH rose and observed, that he prayed the indulgence of the House, and of the delegation from Maryland, and particularly of the young member behind him, (Mr. NELSON, of Md.,) whom, as well as his late father, his fellow-laborer in that House, he was happy to call his friend, for having announced a fact which took place yesterday, though not true at the time the announcement was made. [He alluded to the death of Mr. Pinkney, of Maryland,] and it was due to his own character to state with precision the canal through which he obtained the information. On the seats reserved for them, I saw, said Mr. R., one of the Justices of the Supreme Court of the United States, who told me that the fact was so. I asked him if he was sure of it. He replied that he was—for he had just seen another gentleman—a most worthy member of the bar of Baltimore, equally entitled to credit, and none could be more so—who told him that he had seen the corpse. From thence I returned to my seat. At that moment a gentleman from Ohio, (Mr. Ross,) was addressing the Chair. The intervening time did not, as well as I could judge, exceed two minutes; and time, under such circumstances, would hardly appear shorter than the reality. I was myself, said Mr. R., under an impulse which I was as utterly unable to control, as I now am to control the throbbing arteries of my frame. It was under that impulse I announced it as a fact to the House—for I could not bear that we should be occupied with that sort of discussion which was then pending, or with any, at a time when a loss had occurred to this nation, and a void created which never can be filled—the loss of a man whose legal reputation transcended that of any other man in this country—the President of that Court—of which both were most illustrious ornaments—only excepted; for, of all others, it might be said that, in point of professional renown, at least, they were *proximi longo intervallo*.

Mr. R. concluded, by expressing the hope, that the apology he had made would be accepted by those to whom it was addressed. He owed it to his very respectable informant to state, that the whole grew out of that gentleman's mistaking the statement of the gentleman from whom he had drawn his information, which was, that he had seen a person who said he had seen the last sad remains of Mr. Pinkney, and not that he had seen them himself.

By unanimous consent, the entry above referred to in the Journal was then expunged.

On motion of Mr. SMITH, of Maryland, the order of business of the day was dispensed with, and a recess at the pleasure of the House was directed.

Soon afterwards a message was received from the Senate, announcing the death of the Hon. WILLIAM PINKNEY, a Senator of the United States from the State of Maryland, and that his funeral would be attended on to-morrow from the Senate Chamber, at 11 o'clock in the forenoon.

Mr. SMITH, of Maryland, then rose, and submitted the following resolution, which was unanimously agreed to:

Resolved, That this House will attend the funeral of the Hon. William Pinkney, late a member of the Senate from the State of Maryland, to-morrow at 11 o'clock; and, as a testimony of respect for the memory of the deceased, will go into mourning, and wear crape for thirty days.

And then the House adjourned over to Thursday.

THURSDAY, February 28.

Mr. MORGAN presented a memorial of the Chamber of Commerce of the city of New York, praying that a light-vessel may be built and maintained off the extreme of the harbor of New York, for the safety and security of vessels entering said harbor.

Mr. COLDEN presented the memorial of sundry inhabitants of the city of New York, praying that measures may be concerted with foreign Governments for the total abolition of the African slave trade; which memorial was referred to the committee on that part of the President's Message which relates to the suppression of that trade.

Mr. WILSON, of Maryland, presented a petition of Sarah Easton and Dorothy Storer, children and only heirs of Robert H. Harrison, a lieutenant colonel in the Revolutionary army, and secretary and aid-de-camp to General Washington, praying to be allowed and paid five years full pay, as the commutation of half pay for life, to which their ancestor was entitled for services in the capacities aforesaid; which petition was referred to the Committee on Pensions and Revolutionary Claims.

Mr. CAMPBELL, of Ohio, from the Committee on Private Land Claims, to which to which was referred the bill from the Senate, entitled "An act granting a right of pre-emption to Noble Osborne and William Doake" reported the same without amendment, and it was committed to a Committee of the Whole.

Mr. CAMPBELL, from the same committee, to which was also referred the bill from the Senate, entitled "An act for the relief of the legal representatives of Manuel and Isaac Monsanto, deceased," reported that the committee had considered the said bill and directed him to recommend to the House that the same do not pass; and the bill was laid on the table.

Mr. SMITH, from the Committee of Ways and Means, made an unfavorable report on the memo-

H. OF R.

Fortifications at Mobile.

FEBRUARY, 1822.

rial of the Bible Society of Philadelphia; which was read and ordered to lie on the table.

Mr. SMITH, from the same committee, reported a bill for the relief of Peter Cadwell and James Britten; which was read twice, and committed to a Committee of the Whole.

Mr. TUCKER, of Virginia, submitted the following resolution:

Resolved, That the President be requested to communicate to this House such information as he may possess, relative to any private claim against the piece of land in the Delaware river, known by the name of the Pea Patch, and to state if any, and what, civil process has been instituted in behalf of such claim.

The resolution was ordered to lie on the table one day.

The House took up and proceeded to consider the report of the Secretary of the Treasury of the 25th January, 1822, on the petition of James Green; whereupon, it was ordered that the said report and petition be referred to the Committee on the Judiciary.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

Under the appropriation made by the act of Congress of the 11th of April, 1820, for holding treaties with the Creek and Cherokee nations of Indians, for the extinguishment of Indian title to lands within the State of Georgia, pursuant to the 4th condition of the first article of the Articles of Agreement and Cession between the United States and the State of Georgia, on the 24th of April, 1802, a treaty was held with the Creek nation, the expense of which, upon the settlement of the accounts of the commissioners who were appointed to conduct the negotiation, was ascertained to amount to the sum of \$24,695, leaving an unexpended balance of the appropriation, of \$5,305, a sum too small to negotiate a treaty, also, with the Cherokees, as was contemplated by the act making the appropriation. The Legislature of Georgia being still desirous that a treaty should be held for further extinguishment of the Indian title to lands within that State, to obtain an indemnity to the citizens of that State for property of considerable value which had been taken from them by the Cherokee Indians, I submit the subject to the consideration of Congress, that a further sum, which, in addition to the balance of the former appropriation, will be adequate to the expense attending a treaty with them, may be appropriated, should Congress deem it prudent.

JAMES MONROE.

WASHINGTON, February 25, 1822.

The Message was read and committed to the Committee of the whole House, to which is committed the joint resolution making an appropriation for carrying into effect the Articles of Agreement and Cession between the United States and the State of Georgia, entered into on the 24th of April, 1802, and for other purposes.

The SPEAKER laid before the House the following communications, viz:

A letter from the Secretary of the Treasury, transmitting statements of the tonnage money received by the Registers of Baltimore, between the years 1800 and 1821, with the application of the same; also of the tonnage duty collected at the

custom-house in Savannah, from 1811 to 1821, and the expenditure thereof, under acts of the Legislatures of the respective States of Maryland and Georgia; which letter and statements were referred to the Committee of the Whole. •

A letter from the Secretary of the Treasury, transmitting a statement of the emoluments and expenditures of the officers of the customs; which was ordered to lie on the table.

A letter from the Secretary of the Treasury, transmitting a statement of the duties paid and secured to be paid at the custom-house at East river, from its establishment, with the vessels employed in foreign trade; also, a statement of the tonnage employed in the coasting trade; together with like statements from the custom-house at York; which letter and statements were referred to the Committee on Commerce.

A report of the Secretary of the Treasury, on the petition of John Good; which was read, and ordered to lie on the table.

A report of the Postmaster General, of the receipts and expenditures of the General Post Office, from the year 1816 to the year 1821, inclusive; which was read and referred to the Committee on the Post Office and Post Roads.

FORTIFICATIONS AT MOBILE.

Mr. EUSTIS, from the Committee on Military Affairs, to which was referred so much of a memorial of the Legislature of the State of Alabama as relates to the fortifying the city of Mobile, and, also, a petition of sundry inhabitants of the said State, upon the same subject, made a report thereon; which was read and ordered to lie on the table. The report is as follows:

The Committee on Military Affairs, to which was referred so much of the memorial of the Legislature of the State of Alabama, and of certain citizens thereof, as relates to fortifications, have considered those memorials with the attention due to the respectable authority from whence they have proceeded, and report: That they have received from the War Department a chart of the entrance of Mobile Bay; from the Committee of Ways and Means a chart of the coast, including the Mississippi, and the Bay of Pensacola, furnished by the Commissioners of the Navy Board; and a chart by Curtis Lewis of Alabama, describing the entrance into Mobile Bay, with directions for shipmasters to enter the bay, and pursue their course to the cities of Mobile and Blakeley, taken in 1820, apparently with great accuracy.

From these charts, taken collectively, it appears that there is a sand bar, at the distance of about four miles from Mobile Point, on which the depth of water is sixteen feet; after passing the bar, the water deepens to eighteen, thirty, and forty-two feet. After passing the point, it shoals again to eighteen feet, where a ship that can pass the bar may lay in perfect safety, being beyond gunshot of the fort. From thence, pursuing the ship channel, the water shoals gradually to ten feet; from thence, to the city of Mobile, distant about six miles in a direct course, the water shoals to seven feet. The ship channel pursues a circuitous route to the city, in deep water; another channel, equally deep, but more direct, leads to Blakeley: from whence it follows, that no ship of war larger than a sloop can pass the bar, or approach the city of Mobile nearer

FEBRUARY, 1822.

Fortifications at Mobile.

H. OF R.

than twenty-five miles; the distance from Mobile Point to the city is about thirty-four miles.

The distance from Mobile Point to Dauphin Island is about three and a quarter miles. The ship channel runs nearer to Mobile Point, within the range of shot from the fort now building; this channel appears to be at least two miles and a half distant from the fort on Dauphin Island, of course beyond gunshot of that island.

The report of the engineers, in 1820, herewith submitted, states, that a fort is erecting on Mobile Point, to contain one hundred and eight guns, fifty-four of which are intended to defend against an attack by water, and fifty-four against an attack by land; that on Dauphin Island another fort is intended to be erected, to contain an equal number of guns.

These forts, when completed and garrisoned, cannot be considered (as the engineer states,) a sufficient protection against an enemy entering the bay, without the aid of a floating force, in which opinion your committee perfectly coincide—the ship channel being one mile wide, the course direct, and the water deep after passing the bar, so that vessels which can pass the bar might pass in the night without fear of injury from either fort, proceed on, and come to anchor in eighteen feet of water, out of the reach of gunshot, and act either against Mobile or Blakeley, as might be most convenient to his force.

The committee feel no small degree of diffidence in offering an opinion on a subject which has been considered by men of science in their professional character; at the same time a sense of duty compels them to state their ideas on this subject, as it is considered important by a respectable State, and involves the nation in a heavy expense.

The committee are agreed that a strong fort on Mobile Point is necessary. An attack by ships of war is not, in the opinion of the committee, to be apprehended; for, as they have already stated, no vessel of war larger than a sloop can pass the bar, and sloops of war are not considered competent to lay before a fort. A battery, containing a small number of guns, would be a sufficient force against any number of vessels of that description. It is true a sloop of war did imprudently fire on the small fort on the Point in the last war, and it is as true she was silenced and taken. The fort may be taken by land, and may be incommoded by gun brigs brought within the bar, and out of gunshot of the fort, and throw shells into it, while an army is making its regular approaches.

The fort on Mobile Point is placed at the extremity of a narrow strip of land, three or four miles long, and from half a mile to a mile wide. The sea near it is sufficiently deep for the largest vessels. The enemy landed there from the ships, and took the small fort on the Point. Instead of the large work which has been projected, to contain 108 guns, the committee conceive that a smaller work, with a steam frigate and gunboats, would constitute a better defence. A floating force would be peculiarly useful against an attack by land, as their guns would sweep the peninsula, and prevent bomb vessels from annoying the fort, while engaged with an attacking army. The guns for such a steam frigate, and the gunboats, with the steam apparatus, might be deposited at the city of Mobile, or in the fort at the Point, ready to be mounted, and the frigate and boats constructed when occasion should require it. In the event of the fort being taken, the

floating force would retreat into shoal water, and prevent an attack on Mobile or Blakeley, as the attack must be made by barges, no vessels drawing more than seven feet water being able to go in a direct course to the city, and in the circuitous route none drawing more than ten feet water.

The report of the engineers states that the object of forts on Mobile Point, and on the eastern point of Dauphin Island, are, to prevent the enemy from occupying them as places of refuge; to prevent the mouths of the river from being blockaded; to secure the communication between New Orleans and Mobile Bay.

The fort on Dauphin Island is intended to defend the western channel, which they state to be one mile distant, and having a depth of water of ten feet, according to their chart, and seven feet according to Lewis, through which vessels constructed for the purpose, and drawing from eight to nine feet water, and mounting twelve or fifteen guns, might enter the bay. It will, also, they add, deprive the enemy's vessels of the anchorage under Pelican Island, which anchorage they state to be fit for vessels drawing seventeen or eighteen feet water; that is to say, sloops of war. It will, also, as they say, prevent an enemy from establishing themselves on Dauphin Island, by cutting a communication between Lake Pontchartrain and Mobile Bay, while the fort will serve as a depot for naval stores, and for the stores and armament necessary for the protection of the coasting trade.

The committee have given these subjects due consideration, and have also considered Dauphin Island in all its bearings and relations, and cannot believe them of sufficient importance to justify an expenditure of a million of dollars, which the work on Dauphin Island, with its ordnance and necessary fixtures, will probably require, without taking into view the subsequent expenses incident thereto.

Would a fort on Dauphin Island effect the objects contemplated by the engineers? The committee conceive that it could not. It is too far distant from the ship channel to aid in preventing a blockade; nor can the fort on Mobile Point, although near to the channel, entirely effect it. A single sloop of war, lying at anchor within the bar, three miles distant from the fort, or in the bay, out of gunshot of the fort, would effectually blockade the bay, without being exposed to danger from either fort.

Will a fort on Dauphin Island protect the coasting trade from New Orleans? Certainly it cannot. The channel for coasting vessels has from four to five feet water, and is at least four miles distant from the site of the fort on Dauphin Island. The coasting trade cannot of course receive protection from any force placed there. Would a fort on Dauphin Island be able to deprive an enemy of anchorage under Pelican Island? A sloop of war might anchor under that island, if the engineers' chart be correct, and might remain there. She would then be thirty-five miles distant from Mobile, and could approach no nearer—for the western channel has only ten feet water, according to the engineers' chart, and but seven according to Lewis. The chart last mentioned, and that from the Navy Office, give only eleven and twelve feet water to the entrance; to the anchorage under Pelican Island, of course, not even a sloop of war can enter, if these charts be correct. It is alleged that vessels drawing eight or nine feet water, and mounting ten or twelve guns, may pass through the western channel. If Lewis's chart be correct, they cannot; if that of the

H. OF R.

Transactions in Florida.

FEBRUARY, 1822.

engineers be correct, they may. Such vessels may, however, pass more conveniently in the night in the ship channel, in deep water, and make their arrangements at their leisure for an attack on the city of Mobile or Blakeley, in the bay, and out of gunshot of the fort.

The engineers say, "that the western channel being one mile from the site of the fort on Dauphin Island, such vessels would pass with very little annoyance from the shot of the fort, and that they can be prevented in no way but by a floating force;" from whence it follows that the immense fortification contemplated on this island could not have the effect of preventing such vessels from entering the bay. The anchorage under Pelican Island may be entered, agreeably to the engineers' chart, by vessels drawing seventeen or eighteen feet water; but, according to the chart of the Navy Commissioners, and that of Lewis, taken in 1820, there are only eleven or twelve feet of water; and, if these be correct, even sloops of war cannot enter. Vessels drawing only eight or nine feet water, and mounting twelve or fifteen guns, must, as your committee apprehend, be built for the occasion. The steam frigate and gunboats herein recommended, would, in the opinion of the committee, prove a more effectual security against an enemy entering the bay, than the one hundred and eight guns proposed to be mounted on the land.

The objection to the occupation of Dauphin Island by an enemy, and to his making an establishment there, from whence to cut off the coasting trade between New Orleans and Mobile, consists in this; the water is not sufficiently deep for him to be protected by his fleet, while his object may be much better accomplished by taking possession of Cat Island, thirty miles distant from Lake Pontchartrain, and about fifty miles from the east end of Dauphin Island, where large ships of war may lay in safety, and from whence he may completely intercept their trade. A single sloop of war, stationed at Cat or Ship Island, would destroy their trade, without risk, unless prevented by a superior naval force.

The fort on Dauphin Island cannot be made use of as a depot of naval stores, or armament for defence of the coasting trade, because the depth of water, for nearly a mile distant from the shore, will not admit our smallest vessels. Should such a place of deposit be deemed necessary, Mobile Point is in every respect preferable. The harbor near the point is good, and the water sufficiently deep for vessels to anchor near it, and to discharge their cargoes with facility.

From the best view which the committee have been able to take of the subject, it appears to them that the fortification on Dauphin Island, calculated to contain one hundred and eight guns, ought to be discontinued; that an enclosed work on Mobile Point, calculated to mount fifty or sixty pieces of heavy ordnance, with an adequate floating force, and twenty or thirty pieces (say 12, 18, and 24-pounders) mounted, and deposited in an arsenal to be erected for that purpose, at Mobile or Blakeley, from whence they may be detached, as occasion might require, to the points of land by which the boats or barges of an enemy must necessarily pass, in his approach to either of those places, and to cover the floating force in case of retreat, would constitute a suitable defence for the bay of Mobile.

All of which is respectfully submitted by the Committee.

TRANSACTIONS IN FLORIDA.

Mr. WHITMAN, of Maine, rose to address the House. He thought the period had arrived in which it had become proper to take into the serious consideration of this House that part of the President's Message which related to the transactions in Florida. In the course he had thought it his duty to pursue in relation to the subject, he was actuated by no personal hostility to either of the individuals to whose conduct the inquiry principally related. The further prosecution of this investigation was an irksome task, but he believed it a duty to perform it. That part of the documents which seemed to be referrible to the Committee on Foreign Relations, contained, in his opinion, facts which ought to arrest the attention of the people of this country. Would it be said that this subject was an affair which belonged to the Executive only, because those officers were appointed by the Executive? If, indeed, said Mr. W., the Executive only were affected by these transactions, the argument might be a good one. But the character of the nation was also involved, and it could not be the duty of the Representatives of the people to sit still, when it was evident that the Executive had no disposition to interfere. Mr. W. could not admit that the people were necessarily to be identified with the Executive. Mr. W. went on to say, that he would not be understood to advocate the cause of a foreign Power, to the disparagement of our own Government. But, it appeared, from the documents in this case, that Colonel Callava claimed to be Commissioner of the Spanish nation, and by a recurrence to the documents, (p. 9,) it would be seen that General Jackson had actually recognised him as such, and treated with him in that capacity. But General Jackson subsequently denies to him such powers, (*vide* p. 76 and 77.) This was a necessary assumption, in order to justify his preceding conduct in regard to that officer; but, from the general tenor of the documents, it is evident that Colonel Callava was what he claimed to be—a Commissioner for the purpose of delivering up the Floridas pursuant to the treaty, &c. What conduct, then, was it incumbent on the American Governor to have pursued? Was it consistent with the dignity of the American people to commit violence upon the person of a Spanish Commissioner? The papers that caused the controversy, Mr. W. contended, were regularly in the power of an authorized agent of Spain—and there is evidence of precipitancy, at least, on the part of General Jackson to get possession of these papers. By what law could he justify such violence? By the common, the civil, the American, or the Spanish law? No—by no law could such a summary act of violence be justified, but by military law—a law that cannot be recognised where the laws and Constitution of the country are in force, unless in time of war, or in executing the laws of the country. Where was the imperious necessity that required in this case, the immediate interposition of military force? There was none. The papers in question were not necessary, nor even important, to the individual claiming them. But, ad-

FEBRUARY, 1822.

Transactions in Florida.

H. OF R.

mitting it were otherwise? Were they concealed by Colonel Callava? Not at all. Mr. W. was pursuing this course of argument, when

He was called to order by Mr. SANDERS, on the ground that there was no question now before the House.

The SPEAKER decided that, although the practice of the House had been otherwise, yet it was the opinion of the Chair that it was strictly not in order to discuss the merits of a proposition until it had been presented to the House, and the question regularly stated thereon.

Mr. WHITMAN thereupon handed to the Chair the following resolutions:

Resolved, That such parts of the documents accompanying the Message of the President of the United States, of the 28th January last, as comprise the correspondence between Andrew Jackson, late Governor of the Floridas, his deputies and substitutes, and the officers of His Catholic Majesty there resident, and the issuing by the said Jackson of his proclamation of the 29th September, 1821, be referred to the Committee on Foreign Relations.

Resolved, That such parts of the documents accompanying the Message of the President of the United States, of the 28th of January last, as relates to the exercise of judicial functions on the part of Andrew Jackson, late Governor of the Floridas, and the controversy relative thereto, between him and Eligius Fromentin, Judge of the Court therein, be referred to the Committee on the Judiciary.

Resolved, That such parts of the documents accompanying the Message of the President of the United States of the 28th of January last, as relate to the employment of the military force of the United States, in the execution of the orders and decrees of Andrew Jackson, late Governor of the Floridas, while claiming to act in a judicial capacity there, and to enforce his proclamation of the 29th September, 1821, be referred to the Committee on Military Affairs.

The resolutions having been read—

Mr. WHITMAN resumed his remarks, and enforced his position, that there existed no sufficient cause for the violent act of the American Commissioner. Before he issued his mandate there was proof before him, by affidavit, where the papers were, and that they had not been secreted. From these considerations, Mr. W. thought this part of the subject came peculiarly within the province of the Committee on Foreign Relations; and, if such reference was not made, it would be considered that the Congress, passing it *sub silentio*, approved of the conduct of General Jackson, and of the exercise of military authority by him in this case. By reference to pp. 27, 34, and 113, it would be seen that these documents or papers were not concealed. But why, it would be asked, were they not delivered over to General Jackson? The answer to this question is contained in the documents themselves. It was because Colonel Callava believed that they belonged to the military tribunal, and not to the civil records of the province. The proper course, therefore, would have been to make a formal demand of them, and to have pursued that demand by proper measures to the source of power. Mr. W. then adverted to the proclamation ordering these Spaniards from

Florida. If, as General Jackson contends, when imprisoning Callava, these persons were no longer officers of the Spanish Government—what follows? That, by the express terms of the treaty, all those who preferred to remain in Florida were allowed to remain there. What right, then, had the American commander to take upon himself the exercise of an authority, unknown to the law, and repugnant to the Constitution? But it is said that Governor Jackson possessed a judicial authority.

After Mr. W. had been speaking about half an hour—

Mr. RHEA rose, and required the previous question of *consideration* on the resolutions submitted by Mr. WHITMAN.

This question the SPEAKER decided, Mr. RHEA had a right to require. [The question of *consideration* does not admit of debate.]

From this decision Mr. WILLIAMS, of North Carolina, appealed, as contrary to the rules and practice of the House.

[The written rules referring to this subject, are in the following words:

“When any motion or proposition is made, the question, ‘Will the House now consider it?’ shall not be put, unless it is demanded by some member, or is deemed necessary by the Speaker.”

“When a motion is made and seconded, it shall be stated by the Speaker, or, being in writing, it shall be handed to the Chair, and read aloud before debated.”]

A short debate arose on this question of appeal from the decision of the Chair, in which Messrs. WILLIAMS of North Carolina, WRIGHT, MERCER, CAMPBELL, FLOYD, LOWNDES, McLANE, ARCHER, and STEVENSON, took part.

This being a question as to the order of proceeding, it is not necessary to report the various arguments on which gentlemen sustained their varying views on the subject—the question being entirely a new one in the history of the House.

The SPEAKER put an end to the debate by revoking his decision—stating that the observations of the members who had spoken had convinced him that the right to make a question of *consideration* accrued at the moment a motion was offered, and not after debate of it had commenced. On this occasion, as on all others, he felt it his duty to acknowledge his error on being convinced of it. He therefore now decided that the gentleman from Maine had a right to continue his remarks.

Mr. NELSON, of Virginia, then appealed from the last decision of the Speaker, believing him to have been right in his first decision and wrong in his last. The ground of the appeal was, that, in the present instance, no opportunity had been afforded to exercise the right, which the rule gives to any member, of requiring the previous question of *consideration*.

The question was debated by Messrs. NELSON of Virginia, WRIGHT, RHEA, LITTLE, SERGEANT, MERCER, WILLIAMS of North Carolina, WOOD, BASSETT, RICH, COOK, TAYLOR, WALWORTH, RANKIN, WHITMAN, and SMYTH, and was decided in the affirmative—95 votes to 27. So the decision of the Speaker was affirmed.

H. OF R.

Transactions in Florida.

FEBRUARY, 1822.

Mr. WHITMAN then resumed his remarks on the subject, and expressed his opinion that the Governor of Florida did not possess those judicial powers of which he claimed the exercise. He referred to the act under which that officer was appointed, and contended that it was not a fair construction of that law to consider it as conferring upon the Governor the powers which the Spanish Government had conferred upon the Captain General of Cuba. The law was made with reference to the existing habits and laws of this country, and it was never a part of the policy of this Government, or of the people, to combine judicial, executive, and military powers in the same person—and he contended that the moment the cession was consummated, the laws of the United States took place of the Spanish laws in the Territory of Florida. He also maintained that, so far as the laws of Florida were adopted they were cumulative only, and did not exclude the fundamental laws of this Government, and these laws it was the especial and exclusive right of the judge who was appointed over that territory to interpret and enforce. He therefore thought there was a peculiar propriety in referring this part of the subject to the committee to which he proposed to refer it.

In respect to the third part of the resolution, he also expressed his views at length in enforcing a reference of it to the Military Committee; and concluded by observing that he should have ceased his remarks long ago had he not been interrupted; yet he could not forbear to express his hope that the House would not sit still and sanction, by silent acquiescence, a combination of executive, judicial, and military powers in a single individual, which was a precedent too important to be suffered to gather strength by the silence of the House.

Mr. WRIGHT, of Maryland, expressed his regret that a subject which had already excited considerable discussion, should now be brought forward in another shape. He believed it was unwise to suffer it to distract the attention of the House, at a time when other subjects of greater importance were pressing upon the attention of this body. He contended that the course pursued by the Governor of Florida was evidently correct, and that the documents before the House fully proved it. He had read them with admiration, and they renewed his confidence in the distinguished person who was sent to execute the laws in Florida. The people of that place did not even possess Territorial laws. It was not possible, at that time, to make such a code of laws, and General Jackson was sent, clothed with authority to carry such as were adopted into execution. And what has he done? He has done what the law directed, and he has done no more—and such is the opinion of the Executive. If any body is in fault, it is the Executive. Why not move, then, that he be impeached? Take the bull by the horns instead of directing these measures against an officer whose conduct is approved by the Executive of the nation. Mr. W. adverted to the equivocal and shuffling evasions that were resorted

to by the Spaniards to procrastinate or defeat the cession. Energetic measures were essentially necessary to accomplish the objects of our Government; and, as General Jackson was charged with that duty, he was under an imperative obligation to secure the rights of this Government. In the performance of the task required of him, Mr. W. contended, General Jackson had acted strictly within his duty. The Spaniards had evaded, by every possible artifice, the fulfilment of the treaty of cession. One stipulation of that treaty was, that those Spaniards who were there should depart from the Territory. It was contended, however, that, although they came back again, yet, by once departing, they had complied with the treaty. But was this a fulfilment of the spirit of that instrument? If I find, said Mr. W., my neighbor's cattle in my cornfield, and direct him to turn them out, is it a performance on his part to drive them out at one gate, and then drive them back again at another? Mr. W. contended that, it could not be said that persons who were under the authority of a military commander of Spain could, at the same time, be citizens of this country, and possess a right to the execution of our laws. Mr. W. also adverted to the writ of habeas corpus—the first habeas corpus, he said, that was ever entered upon a Spanish book; and he maintained that it was a privilege of which a Spanish officer had no right to avail himself. Mr. W. also took into consideration, at considerable length, the further points of objection that had been made to the conduct of General Jackson, and strenuously contended that it would bear the strictest scrutiny, and entitle him to the additional confidence and admiration of his country. He concluded by expressing his hope that the papers would be laid on the table, and that that would become their dormitory.

Mr. GILMER rose to give the reasons why he thought the documents relating to the transactions in Florida, ought to be referred to the Committee of the whole House to whom is referred the bill for establishing a government for the Territory of Florida. He quoted the law of the last session to show that, by it, certain rights were reserved to the people of Florida, &c. He also quoted that law to show what sort of authority the President was to give to officers appointed for Florida, and compared General Jackson's commission with the provisions of that law, with a view to show that the powers granted to him, (being those belonging to the Captain General of Cuba,) were greater than those contemplated by the law of the last session. It was important, he argued, that, in the establishment of a system for the future government of Florida, no such mistake should be committed. He was, with a view to this object, about inquiring into what were the powers of the Captain General of Cuba, when the Speaker restrained him in the range of his remarks, by observing that the question before the House, (that of laying the resolutions on the table,) did not admit of that course of debate. Mr. G. then only added, that he thought it important that the Committee of the Whole on the bill for the government of Florida should have these papers before them, in order to

FEBRUARY, 1822.

Transactions in Florida.

H. OF R.

detect the error from which so much difficulty had flowed.

Mr. SMYTH made a few remarks in opposition to the motion, founded on the fact that the mover of these resolutions had been fully heard; and others of a different way of thinking ought to be allowed the same right. He hoped the House would be unanimous in rejecting it.

Mr. SERGEANT was anxious that the resolution should be laid on the table. Its discussion would perhaps consume a week, and he was desirous that the apportionment bill should be disposed of, in order that it might be taken into consideration by the State Legislatures that were now in session, but which could not be done if this discussion should be fully gone into; and also that other subjects actually discussed in part should be finally disposed of.

Mr. LOWNDES expressed his hope that those resolutions would be ordered to lie on the table, and further expressed his opinion that no advantage would result from referring these documents to any committee. The general facts which they presented were sufficiently known to be referred to in debate on the Florida government bill, without specially referring them to the committee on that subject. The whole subject was already before the House, and before the people of the United States, and he did not perceive that any special order in relation to these documents was necessary, or even desirable, &c.

Mr. MERCER always listened with pleasure to the gentleman from South Carolina, but could not yield to the reasons he had urged on the present occasion. Mr. M. was in favor of laying the motion on the table, for the reasons that had been suggested by the gentleman from Pennsylvania, (Mr. SERGEANT;) and particularly as the Legislature of the State he had the honor in part to represent, as well as that of Pennsylvania, was now in session. He also thought it was expedient to complete the business of the House in its order. We had now, he said, (to use a common phrase,) many irons in the fire; and he feared that not one only, but that all of them, would burn, unless more order were observed in disposing of them.

Mr. ARCHER was opposed to laying these resolutions on the table. If that motion should be negatived, he intended to move to refer them to a select committee, who might take the subject into full consideration, and in the meanwhile the House could go on with the consideration of other subjects. In the course of his remarks, he said, that no man could have witnessed the progress of this incidental discussion without seeing the deep solicitude which was entertained by a large portion of this House to evade or avoid a discussion of this subject. He now put it to gentlemen, when a charge of gross malversation on the part of an officer of this Government was preferred, and other gentlemen expressed their sincere belief in it, whether they would investigate this subject, or altogether suppress the discussion, as some seemed to wish, &c.

Mr. SANDERS was in favor of the motion, for the reasons already suggested in relation to the

apportionment bill; and he thought the motion suggested by the member last up, to refer the subject to a special committee, would again open the door to a wide debate. He would not disguise that he wished to lay the papers on the table, and to nail them there. It was not that he wished to stifle inquiry, but he was satisfied that a protracted debate on this subject would do no good. It could only result in an abstract form of censure or approbation, without any practical utility, &c.

Mr. WRIGHT replied at considerable length, particularly to the remarks of the gentleman from Virginia, (Mr. ARCHER.)

Mr. CUTHBERT thought the House had a right to refuse to consider a subject, when policy or its convenience required; and it ought not to be suffered that a minority should drive a majority into such a discussion as the majority should deem inconsistent with the public good. Such a discussion he thought likely to arise out of the further agitation of this question, to which he was therefore opposed.

Mr. STEVENSON was in favor of laying the motion on the table, for the reasons that had been assigned by the gentleman from Pennsylvania, (Mr. SERGEANT,) and should vote in favor of the motion on that ground; but he protested against voting for it for the purpose of putting it at rest. He hoped it would hereafter be taken up and fully discussed; and he asked whether any one, after looking at the volume of documents, could say that the subject ought to receive the go-by? He would vote for the motion, but not for the reasons which the gentleman from Georgia (Mr. CUTHBERT) had assigned. He was proceeding to show the necessity of a discussion of this subject, so nearly connected with the claim of this country to be a land of liberty and law, &c., when the SPEAKER recalled him to the question before the House.

Mr. BUCHANAN was of opinion that, after what had passed, a full investigation ought to be had on this subject. A charge had been preferred against a public officer of high character, not only of an intention to violate the laws of the country, but of having actually violated them: and, said Mr. B., we, the representatives of the people, are bound to investigate the charge. The most serious consequences might be expected to result, if, after charges of this sort were made against an individual, this House should avoid meeting the question—should put them to sleep by permanently laying them on the table. He, for one, was willing to meet the proper responsibility of declaring his opinion, either of the guilt or innocence of this distinguished individual. This was what the people would expect of their Representatives, and Mr. B. trusted they would not be disappointed. The best course, he thought, which this subject could now take, would be, to refer the subject to a Committee of the Whole on the state of the Union, and take it up after other subjects, demanding more immediate attention, should be disposed of.

Mr. ARCHER, rising again, said he now stood up on this floor, and said that he believed, from public report, and from documents which had

H. OF R.

Apportionment Bill.

FEBRUARY, 1822.

been presented to this body, that there had been misconduct and malversation either on the part of the Executive, or of some other officer of this Government, in regard to the transactions in Florida; and he told gentlemen of this House who were the friends of the Executive and of General Jackson, that, if the inquiry were shrunk from, an inference would be drawn—[The SPEAKER here, as all through this debate, endeavored to confine the range of it.] Mr. A. said he did not mean himself to impute any thing improper to gentlemen, but to say, that an inference would be drawn by others, that they wished to suppress all inquiry into the subject. He told this to them, not as an adversary, but as a friend. Some gentlemen had said that the Executive had declared itself satisfied with the conduct of General Jackson, &c. If that was a good reason why no inquiry should be made, let the House say so. He was not of that opinion himself, and he entered his most solemn protest against it.

Mr. REID opposed the motion to lay these resolves on the table; and remarked, that economy of time would be best promoted by an immediate decision of the question upon them. It had been already in part discussed, and if it should be postponed, the same ground would be gone over again. Mr. R. was proceeding to debate the subject more largely, when he also was called to order by the Speaker.

Mr. NELSON, of Virginia, said, if any thing could induce him to vote against the proposition for referring this subject, as proposed, it would be that gentlemen had departed from the ordinary course of proceeding, by discussing it here before an investigation of the subject by a committee. But, although they had done that, he would not shrink from the inquiry. He stood here, not as the advocate or enemy of General Jackson or of anybody else, but as a Representative of the people of the United States. If any wrong has been done, said he, let it be exposed. And if, as suggested, the characters of honorable and high-minded men are to suffer from a suppression of inquiry, it is certainly a strong reason why an inquiry should be made. Another reason for inquiry was the denunciation by his colleague of those members who opposed it—

Mr. ARCHER explained. Nothing was further from his intention than to impute any but the most correct motives to other members of the House. He only meant to say to gentlemen that, though he did not mean himself to impute to them such an intention, yet they might have imputed to them, by other persons who might not know them as well as he did, a design to suppress and put down inquiry.

Mr. NELSON resumed. He was too well aware, he said, of the generous feelings and elevated mind of his colleague, to suppose he *intended* to cast any imputation on other members: he saw that he was hurried away by his feelings for the honor of his country, &c. into what he had said. Mr. N. added, that if this subject was to undergo a discussion, in addition to other subjects before the House, he could absolutely see no end to the present session.

But, in defiance of all these objections, rather than suffer that the justice and honor of this country should be tarnished even by a whisper of suspicion, he would unite with gentlemen to lay this proposition on the table, with a view to taking it up and acting on it at an early day.

Mr. WOOD observed, that the object of a reference was inquiry; but the facts in the present case were fully before us. No report that committees could make would give us any new or additional information. If any thing further was to be presented, it should be embodied in a resolution, and come before the House in that shape. To refer it to a committee or committees, for further inquiry, would be a reference without an object.

Mr. FLOYD made a few general remarks on the subject, and in reply to what had fallen from Mr. NELSON. The opposition to this inquiry, he connected, in his view of the subject, with the opposition which had been made, the other day, to bringing these papers before the House at all. Gentlemen had told the House that the Executive approved the course of General Jackson. It might be so, but Mr. F. inquired of gentlemen on what authority they made this assertion? That the gentleman to whom so many allusions had been made, was a great and distinguished personage, everybody would admit. But, said Mr. F., when we are told that perfect tyranny can be established in one of the Territories, and that the Executive approves it, it is a fit subject for inquiry. If there was no bounds to the tyrannical usurpations—[Here the SPEAKER again interposed, as he had done during the whole debate on the present motion, to restrain its scope, and Mr. F. took his seat.]

Mr. CANNON was in favor of laying the motion on the table and of keeping it there. He had been of opinion from the first that it was not a proper subject for the interposition of this House. If any improper exercise of authority had existed in Florida, the President of the United States was responsible for it, and to him he wished to leave it, &c.

Mr. WHITMAN made a few further remarks; when,

The question was taken, and the motion to lay the resolution on the table prevailed—ayes 101, noes 41.

THE APPORTIONMENT BILL.

The House, on motion of Mr. SERGEANT, then went into the consideration of the bill making an apportionment of the Representatives of the United States, according to the fourth census.

The question before the House, was upon a concurrence with the Committee on the Judiciary in their disagreement to the amendment proposed by the Senate.

Mr. SERGEANT stated that the committee had received additional evidence, after the report had been made, in regard to the amendment proposed by the Senate, which had induced the members of it to change their opinion—and a motion would have been made to recommit the bill, but for reasons that were within the knowledge of the

MARCH, 1822.

Proceedings.

H. OF R.

House. It appeared that there were six counties in the State of Alabama, of which, owing to the death of the United States Marshal, no returns had been made. There was, however, a census taken, and completed under authority of the State, of five out of six of those counties. From this census it appeared that Alabama would be fairly entitled to at least three members according to the rule of apportionment as agreed to—and there was sufficient evidence of that fact to prove that there could be no danger of the result being affected by an increase of inhabitants after the period of enumeration. The State of Alabama had also another claim, from the circumstance that Congress had frequently extended the time for making out the returns, and in the case of Kershaw District, in South Carolina, had carried down that extension almost to the very passage of the bill. For these reasons the committee had authorized him to state that they had changed their opinion from that expressed in the report.

Mr. ARCHER referred to the Constitutional doubts that had been expressed on the amendment proposed by the Senate—and, although he had satisfied himself that it was Constitutional, yet, on such a subject, perhaps more time ought to be given for consideration.

Before any further proceedings were had, the House adjourned.

FRIDAY, March 1.

Mr. RANKIN presented a memorial of the General Assembly of the State of Mississippi, praying that they may be invested with power to sell and dispose of section No. 16 of the public lands reserved for the support of schools, and to invest the proceeds in such manner as will best promote the object for which said section hath been reserved.—Referred to the Committee on the Public Lands.

Mr. SERGEANT, from the Committee on the Judiciary, reported a bill for the relief of Charles Campbell; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. SERGEANT, from the same committee, to whom the subject was referred, reported a bill to repeal a part of the act, entitled "An act to lessen the compensation of marshals, clerks, and attorneys, in the cases therein mentioned;" which was read twice and committed to a Committee of the Whole.

Ordered, That the committee appointed on the 31st of December last on the memorial of sundry inhabitants of the province of West Florida, praying to be annexed to the State of Alabama, to which was referred, on the 24th of January following, certain resolutions of the General Assembly of the State of Alabama, soliciting said annexation; to which committee was also referred, on the 23d ultimo, a memorial of sundry inhabitants of that province in opposition thereto, be discharged, and the said memorials and resolutions be committed to the Committee of the Whole to which is committed the bill for the establishment of a Territorial government in Florida.

The SPEAKER laid before the House a letter

from the Secretary of the Treasury, transmitting sundry documents and papers which have been received since the date of the report made in obedience to a resolution of this House calling for the report of the commissioners appointed to examine the Cumberland road; which letter and documents were referred to the committee to which the said report has been referred.

The resolution submitted yesterday by Mr. TUCKER, of Virginia, requesting information respecting any claim set up to the island in the river Delaware, called the Pea Patch, was taken up and agreed to.

Mr. JOHN SPEED SMITH, of Kentucky, submitted the following resolution, viz :

Resolved, That the Secretary of War be required to report to this House an estimate of the expenses of allowing clothing and subsistence to the cadets at West Point, in lieu of the whole or a part of the monthly pay and subsistence now allowed, together with his opinion as to which method would best advance the interest and welfare of the Military Academy; and, also, his opinion, whether the monthly pay now given to the cadets may not be reduced without injury to the service.

The resolution was ordered to lie on the table one day.

On motion of Mr. BALDWIN, the Library Committee were instructed to inquire into the expediency of purchasing an additional number of Seybert's Statistical Annals.

Mr. CANNON submitted the following joint resolution, viz :

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session by adjournment on the 30th day of March instant.

The resolution was laid on the table until to-morrow.

Mr. TRACY submitted the following resolution, to wit :

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of modifying the act, entitled "An act for the gradual increase of the Navy of the United States," so as to require a part of the annual appropriation to be expended in the construction of vessels of an inferior force to those now authorized by said law to be built.

The resolution was ordered to lie on the table.

The House proceeded to consider the report of the Secretary of the Treasury, made yesterday on the petition of John Goode. Whereupon, it was ordered that the said report and petition be referred to the Committee on Roads and Canals.

An engrossed bill, entitled "An act to amend the act, entitled 'An act to establish the district of Bristol, and to annex the towns of Kittery and Berwick to the district of Portsmouth,'" passed February 25, 1801, was read the third time and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act supplemental to an act entitled 'An act to authorize the appointment of commissioners to lay

H. of R.

Apportionment Bill.

MARCH, 1822.

out the road therein mentioned." They have also passed the bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Missouri, and for the establishment of a district court therein," with amendments; in which bill and amendments they desire the concurrence of this House.

APPORTIONMENT BILL.

The House then proceeded to the consideration of the unfinished business of yesterday; which was the amendment to the Apportionment bill.

[This amendment proposes to allow the State of Alabama to have representation proportionate to her population when its complete amount be ascertained—which has not yet been done.]

Mr. CAMPBELL remarked, that, had the question been taken yesterday, he should have voted in favor of concurring with the amendment proposed by the Senate; but, from further examination and reflection, he was now satisfied that such an amendment would be unconstitutional. Mr. C. read the passage from the Constitution which prescribes the enumeration of the inhabitants, which is to take place every ten years, &c. He thought the Constitution expressly limited the time for taking the census to the respective terms of ten years. The early construction of the Constitution concurred with his opinion, that the time could not be extended beyond the ten years. He thought all the returns made prior to the expiration of that term were legitimate; but no precedent could be found extending beyond that time. If a different construction were now to prevail, it might be dangerous; and the only course in such case is to prevent remissness by adequate penalties. It might be said that it would be hard upon Alabama. Mr. C. did not think that State was to blame, nor was Congress; but the death of the marshal was a misfortune under which it was better that Alabama should suffer a temporary evil than that the Constitution should be violated.

Mr. SERGEANT said, it was not to be denied that there were difficulties in the construction of the Constitution, whatever course might be proposed in regard to Alabama. One question was, whether the enumeration must not only be made but returned, within the term prescribed. Such appeared to be the opinion of the gentleman from Ohio (Mr. CAMPBELL.) But it was impracticable to comply literally with the rule prescribed by the Constitution. There must be some latitude of construction; for the enumeration spoken of, in the Constitution, means an enumeration of the whole people of the United States, and not of a part. Suppose the census of a whole State were unreturned—would it then answer to go on and make an apportionment without including it? This would hardly be contended for. Mr. S. presented various other views in support of the amendment proposed by the Senate. He considered representation as the principal object of the periodical enumeration of the people, and it was the duty of Congress to provide for taking it in the most prompt and most certain manner. But if, in any way, either by the dispensations of Providence, or other-

wise, the returns had not been made from any State, that State ought not therefore to be deprived of a part of its representation. Mr. S. contended that it was not provided by the Constitution that the returns should be made within ten years—but that the enumeration must be made within that time, &c. The question of expediency was of a different character, on which he had entertained doubts, but it would be considered that a decision in favor of the amendment would decide no general principle, and that cases hereafter arising would be left to be decided upon their substantial merits, &c.

Mr. COOK concurred in opinion with the gentleman from Pennsylvania (Mr. SERGEANT) on this subject. He thought the Constitution had wisely poised the inclination the States might have to increase their representation against the inclination they might have to diminish its liability to taxation. Representation and taxation were reciprocal, and the intention of the framers of the Constitution was to cause an enumeration of the people to be made as often as the periods they had prescribed, and for the purposes referred to. The Constitution, like the law, did not require the accomplishment of impossibilities, and when a literal observance cannot be had, it is proper to come as near to it as possible. These impossibilities must be surmounted by legislation; and, for the purpose of regulating and equalizing the proportions both of representation and taxation among the respective States, provisions similar to that now before the House might be occasionally necessary. He thought the safety of the old States required, too, that to prevent an undue proportion of taxation falling upon them, they should be enabled to require that the full enumeration of their population should be made in the growing States, if by any accident or neglect the enumeration therein should have been incomplete, &c.

Mr. MOORE, of Alabama, after some preliminary remarks, adverted to the evidence on which the amendment was founded. He said it was not inferrible from the amendment that the marshal would be authorized to make a new enumeration. The returns from the six counties, not included within the census, had been delayed and prevented from being made by an act of Providence, against which no human prudence could guard. The census had been taken, however, by other officers under oath; and of the six counties, the white population of five had been found to amount to such an aggregate, as, added to the numbers returned in the census, would clearly entitle the State of Alabama to an additional representative for the ensuing ten years. From the county of Pickens there has been no return, even under that authority. Upon the whole, it was evident, that there would be more than fifty thousand white inhabitants in the State of Alabama that would be unrepresented, if the amendment should not be suffered to prevail. Taxation and representation should go hand in hand. This was a maxim that had been often reiterated in this House. It was one to which he yielded a very cordial assent, and he hoped the State of Alabama would not be

MARCH, 1822.

Apportionment Bill.

H. OF R.

doomed to suffer for the want of its application. Shall it be said, remarked Mr. MOORE, that this Democratic branch of the Government refuses its assent to an amendment sent us from the aristocratic branch, which is calculated to assure to the people a just and fair representation? He hoped not, and concluded by observing, that as a similar case was not likely to recur, he hoped the amendment would be allowed to prevail.

Mr. MALLARY said he rose for the purpose of inquiring of the honorable member from Alabama, whether the enumeration had taken place in that State? The answer to that question would determine the vote he was about to give on the amendment proposed by the Senate. [The member from Alabama then answered that he believed the census had been taken, but could not speak with certainty.] Mr. MALLARY said that a recurrence to the Constitution, he thought, would be sufficient to satisfy the House what course ought to be pursued. It was there declared that "the actual enumeration shall be made within three years after the meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct." The period of ten years expires on the third day of March, 1822. If the Constitution is to be respected, and the laws of Congress made agreeably to its authority, no enumeration should be allowed after the expiration of that period. It appeared, from the amendment proposed by the Senate, to be at least doubtful whether an enumeration made after the third of March, 1822, might not be considered on the question of allowing an additional member to Alabama. Mr. M. then observed that, unless some modification should be made which might require the enumeration to be taken previous to the time which has been mentioned, with such an alteration of the proposed amendment he should cheerfully concur.

Mr. BALDWIN, of Pennsylvania, intimated that he had prepared an amendment which would meet the views of Mr. M.

Mr. MALLARY gave way, and the amendment proposed by Mr. B. was then offered as follows:

"*Provided*, That, in ascertaining the population of the said State, no computation shall be taken of any enumeration made subsequently to the 3d day of March, 1822."

Mr. MALLARY then made his remarks in favor of the amendment proposed. He contended that it was demanded by the Constitution. However desirable it might be to afford the indulgence to the State in question, yet it ought not be done at the sacrifice of the principles of the Constitution.

Mr. CAMPBELL, of Ohio, expressed his approbation of the amendment, and with it, he could consent to the amendment proposed by the Senate, for he thought it avoided the Constitutional difficulty that had occurred to him.

Mr. LOWNDES could not assent to it, for the great object of the Constitution was to adapt the representation of the country to the population of the country. That was the principle, and the manner of making that adaptation was matter of form. Mr. L. thought it more conformable to the

spirit of the Constitution to adhere to the substance than to the form, and it was better to wait three months for returns to be made, than to wait ten years before the people could be represented.

Mr. MOORE, of Alabama, also expressed his reasons for dissenting from the amendment.

The amendment was further opposed by Messrs. FARRELLY, SERGEANT, HARDIN, WRIGHT, WILLIAMS of North Carolina, WALWORTH, STEVENSON, and COOK: who urged, in addition to the reasons already suggested, that the amendment as proposed from the Senate was sufficiently explicit, and did not contemplate that the marshals of Alabama would be authorized to make a new enumeration. It pre-supposed that the enumeration was already made, but the returns withheld, owing to the death of the marshal. It was in the nature of a reservation, and referred to the returns, and not to the enumeration. It was also contended that the authority to make an apportionment was founded upon the Constitutional direction to make an enumeration, and that the former could not take place until the latter had been completed.

The amendment was supported by the mover, and by Messrs. COLDEN and BUCHANAN, principally on the ground that the Constitution was imperative that an enumeration should be made once in ten years. If the returns should be lost, it would then be competent for Congress to provide for the occasion, provided the actual enumeration had been taken. It was necessary to confine the operation of the amendment by some express limitation; for, as it now is, it would authorize an enumeration to include all who might be inhabitants of the State of Alabama down to the passage of the act.

The question was finally taken on Mr. BALDWIN's amendment, and decided in the negative—ayes 46, noes 61.

Mr. RANKIN, after a few preliminary observations, submitted the following amendment, to be introduced next after the word "session" in the words following, viz: "by an actual enumeration made previously to the 3d of March, 1822, in the manner prescribed by the act providing for taking the fourth census of the United States." On which, Mr. R. called for the ayes and noes, which were thereupon ordered.

This amendment was supported by the mover and by Mr. McLANE of Delaware, and opposed by Messrs. F. JOHNSON, MOORE of Alabama, McDUFFIE, and SMITH of Virginia; and the course of argument on both sides approximated very near to that assumed in the debate on the motion of Mr. BALDWIN.

The question was ultimately taken and decided in the negative—ayes 61, noes 98.

YEAS—Messrs. Allen of Tennessee, Archer, Baldwin, Ball, Barber of Ohio, Bateman, Borland, Buchanan, Butler, Campbell of Ohio, Cassedy, Chambers, Cocke, Colden, Crafts, Crudup, Cushman, Dane, Dickinson, Dwight, Edwards of Connecticut, Edwards of Pennsylvania, Fuller, Harvey, Hawks, Hill, Hooks, Hubbard, Keyes, Lincoln, Long, McLane, McNeill, Mallary, Matson, Mattocks, Milnor, Nelson of Massa-

H. OF R.

Suppression of Piracy.

MARCH, 1822.

chusetts, Nelson of Maryland, Patterson of New York, Plumer of New Hampshire, Randolph, Rankin, Reed of Massachusetts, Rochester, Ross, Russ, Sawyer, Sloan, Stoddard, Swan, Taylor, Tod, Tomlinson, Trimble, Upham, Warfield, White, Whitman, Williams of Virginia, and Wood.

NAYS—Messrs. Abbot, Alexander, Allen of Massachusetts, Barber of Connecticut, Bassett, Baylies, Bayly, Bigelow, Blair, Brown, Burton, Cambreleng, Campbell of New York, Cannon, Causden, Condict, Conkling, Conner, Cook, Cuthbert, Darlington, Denison, Durfee, Eddy, Edwards of North Carolina, Eustis, Findlay, Garnett, Gist, Gorham, Gross, Hardin, Herrick, Hobart, Jackson, F. Johnson, J. T. Johnson, J. S. Johnston, Jones of Virginia, Jones of Tennessee, Kent, Kirkland, Leftwich, Litchfield, Lowndes, McCarty, McCoy, McDuffie, McSherry, Matlack, Mercer, Metcalfe, Mitchell of Pennsylvania, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Morgan, Murray, Neale, Nelson of Virginia, Newton, Overstreet, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of Pennsylvania, Poinsett, Rhea, Rich, Rogers, Russ, Ruggles, Russell, Sanders, Sawyer, Scott, Sergeant, Sloan, S. Smith, Arthur Smith, W. Smith, J. S. Smith, Sterling of New York, Stevenson, Swearingen, Thompson, Trimble, Tucker of South Carolina, Tucker of Virginia, Vance, Van Wyck, Walworth, Williams of North Carolina, Williamson, Wilson, Woodcock, Woodson, and Wright.

The question then recurred upon the concurrence of the House with the report of the Committee on the Judiciary, in their disagreement to the amendments of the Senate.

Mr. RANDOLPH called for the yeas and nays upon the question, which were thereupon ordered.

After a motion to adjourn had been negatived, Mr. RANDOLPH rose and addressed the House in favor of a concurrence, on the ground that he would agree to no measure that should contain a proposition to diminish the present number of Representatives from the State of Virginia; and on the ground that in this, as in a case of a money bill, it was not competent for the Senate to interfere.

The question was then taken and decided in the negative—yeas 47, nays 98, as follows:

YEAS—Messrs. Archer, Baldwin, Barber of Connecticut, Barber of Ohio, Bateman, Borland, Buchanan, Burrows, Burton, Campbell of Ohio, Cassidy, Chambers, Cocke, Condict, Crafts, Crudup, Dane, Dickinson, Dwight, Edwards of Connecticut, Edwards of Pennsylvania, Garnett, Hill, Hobart, Keyes, McCoy, McLane, Mallary, Matlack, Matson, Montgomery, Nelson of Massachusetts, Nelson of Maryland, Patterson of New York, Plumer of New Hampshire, Randolph, Rankin, Reed of Massachusetts, Russ, Stoddard, Tod, Tomlinson, Warfield, White, Williams of Virginia, Williamson, and Wood.

NAYS—Messrs. Abbot, Allen of Massachusetts, Allen of Tennessee, Bassett, Baylies, Bayly, Bigelow, Blair, Brown, Cambreleng, Cannon, Causden, Colden, Conkling, Conner, Cook, Cushman, Cuthbert, Darlington, Durfee, Eddy, Edwards of North Carolina, Eustis, Findlay, Floyd, Fuller, Gist, Gross, Hardin, Hawks, Herrick, Hooks, Hubbard, Jackson, F. Johnson, J. T. Johnson, J. S. Johnston, Jones of Virginia, Jones of Tennessee, Kent, Kirkland, Leftwich, Lincoln, Litchfield, Long, Lowndes, McCarty, McDuffie,

McNeill, McSherry, Mattocks, Mercer, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Morgan, Neale, Nelson of Virginia, Overstreet, Patterson of Pennsylvania, Phillips, Pitcher, Plumer of Pennsylvania, Poinsett, Rhea, Rich, Rogers, Russ, Ruggles, Russell, Sanders, Sawyer, Scott, Sergeant, Sloan, S. Smith, Arthur Smith, W. Smith, J. S. Smith, Sterling of New York, Stevenson, Swearingen, Thompson, Trimble, Tucker of South Carolina, Tucker of Virginia, Vance, Van Wyck, Walworth, Whipple, Whitman, Williams of North Carolina, Wilson, Woodcock, Woodson, and Wright.

And so the amendment of the Senate was agreed to, and it was ordered that the Clerk acquaint the Senate therewith.

SATURDAY, March 2.

The amendments proposed by the Senate to the bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Missouri, and for the establishment of a district court therein," were read, and referred to the Committee on the Judiciary.

A bill entitled an act supplemental to an act, entitled "An act to authorize the appointment of commissioners to lay out the road therein mentioned," (the Cumberland road,) was read a first and second time, and referred to the Committee on Roads and Canals.

A bill from the Senate, entitled "An act to provide for the due execution of the laws of the United States within the State of Missouri, and for the establishment of the district court therein, was referred to the Committee on the Judiciary.

The next subject in the orders of the day, was the report of the Committee on Military Affairs on the petitions of the Spanish officers confined in Pensacola, which report recommended that the Military Committee be discharged from the further consideration thereof. The motion depending when this subject was last under consideration, was, to lay it on the table—which would be in effect to put aside the subject. And the question was taken on laying the same on the table, and decided in the affirmative, without a division.

Mr. SERGEANT, from the Committee on the Judiciary, reported a bill to alter the judicial districts in the State of Pennsylvania, and for other purposes; which was twice read and committed.

Mr. SERGEANT, from the same committee, reported a bill to enable the proprietors of lands held by titles derived from the United States, to obtain copies of papers from the proper department, and to declare the effect of such copies; which was twice read and committed.

SUPPRESSION OF PIRACY.

Mr. McLANE, from the Committee on Naval Affairs, reported, in part, pursuant to certain resolutions submitted to them, respecting the piracies committed in the Gulf of Mexico and the contiguous seas—setting forth the measures that had been resorted to to suppress them, and the views of the committee in relation to further measures that were necessary for that purpose.

MARCH, 1822.

Suppression of Piracy.

H. OF R.

The report is as follows :

The Committee on Naval Affairs, to whom was referred the several resolutions of the House of Representatives, of the 3d of January, and 5th and 6th of February last, beg leave to submit the following report, in part : That they have made the investigation which the importance of the subject demands, and have kept in view the general object of protecting the persons, and property of the citizens of the United States, and of guarding the laws of the United States from violation, upon terms the least embarrassing to the public finances.

The extent, however, to which the system of plunder upon the ocean is carried on in the West India seas, and Gulf of Mexico, is truly alarming, and calls imperiously for the prompt and efficient interposition of the General Government. Some fresh instance of the atrocity with which the pirates infesting those seas carry on their depredations, accompanied, too, by the indiscriminate massacre of the defenceless and unoffending, is brought by almost every mail, so that the intercourse between the Northern and Southern sections of the Union, by sea, is almost cut off.

The committee are induced to believe that this system of piracy is now spreading itself to a vast extent, attracting to it the idle, vicious, and desperate of all nations, and, more particularly, those who have heretofore been engaged in the slave trade, from which the vigilance of the American cruisers have driven them ; and that, if they are not winked at by the authorities in the Island of Cuba, they are in no respect restrained by their interference.

The committee are also of opinion, that, extended as the American coast has now become, the danger of smuggling has considerably increased, and that both these considerations recommend the employment of an ample naval force, which, by scouring those seas, shall have the effect of driving the present freebooters from the ocean, and of preventing others from resorting to similar practices. Depredations of this description can be effectually broken up only by keeping up such a force as will render the hazard of engaging in them greater than the emolument to be derived from success.

Under this view of the subject, the committee have inquired into the situation of the vessels now belonging to the Navy of the United States, to ascertain what portion of them may be advantageously employed for the purposes embraced in the above resolutions.

That of those actually employed, they find that the ship Franklin, of 74 guns, is in the Pacific Ocean, for the protection of our commerce and whale trade in that quarter ; and that the Constellation frigate, of 36 guns, is in the same ocean, but ordered to return to the United States upon the arrival of the Franklin ; that the schooner Dolphin, of 12 guns, accompanies the Franklin as absolutely necessary upon so long a cruise.

That the frigate Constitution, of 44 guns ; sloop of war Ontario, of 18 guns ; and schooner Nonsuch, of 10 guns, are cruising in the Mediterranean, to keep the Barbary Powers in awe and protect our commerce on that sea ; and, it is believed, that a less force would be inadequate for these objects.

That the sloop of war Hornet, of 18 guns ; the brigs Enterprise and Spark, of 12 guns each ; and the schooners Porpoise, Grampus, Shark, and Alligator, of 12 guns each, are already cruising in the West

India seas and Gulf of Mexico, for the protection of trade, suppression of piracy, and traffic in slaves ; and that two gunboats, Nos. 158, and 168, are also cruising along the coasts of Georgia and Florida for the same purposes.

That the frigate Macedonian is now equipping at Boston, and will soon sail on a cruise for the same object ; and that it will be necessary to keep at least one vessel of war, either a corvette or schooner, on the coast of Africa, as the most efficient means for the suppression of the slave trade.

The committee are of opinion that the foregoing enumerated force could be withdrawn from the service in which it is employed without detriment to the public interest, and that the force now in the West India seas and Gulf of Mexico is inadequate for the objects specified in the resolutions above referred to.

That the rest of the force belonging to the navy, consisting of the Java, of 44 guns, and now unworthy of repairs ; the Erie, of 18 guns ; the Peacock, of 18 guns ; Congress, of 36 guns ; Guerriere, of 44 guns ; John Adams, of 24 guns ; United States, of 44 guns, and Cyane, of 24 guns, are in ordinary at the different navy yards, at Boston, New York, Washington, and Norfolk.

But the committee do not hesitate to pronounce sloops of war to be better adapted to the purposes contemplated by the resolutions than frigates, or smaller vessels. They are superior to frigates, because being in relation to the service equally efficient, and costing no more than half the sum, the same expense will enable us to multiply the chances of success by increasing the number of vessels, and doubling the efficiency of the same expense. They are superior to smaller vessels, because they are decidedly of a greater force than any of the piratical cruisers, or even the vessels employed in the slave trade, many of which are now, or soon would be, more than a match for schooners. The number of the men on board of sloops of war would also give these vessels the advantage, by enabling them to man their prizes more securely ; to man and send their boats in force into waters too shallow for schooners, where the pirates seek shelter, and for many other objects necessarily incident to such a service. Nor do the committee suppose that the consideration of promoting and preserving a proper discipline among the officers of the navy is altogether to be overlooked in deciding upon the species of force to be employed in a particular service.

The committee are of opinion, therefore, that, to afford immediate and effectual protection to our commerce in the West India seas and the Gulf of Mexico, the most expeditious and advisable course, in the first instance, would be, to fit out the corvettes Cyane and John Adams, and the sloops of war Peacock and Erie, which can be accomplished within a short time, and with little expense ; that the Erie can be fitted for sea in the course of five months, the Peacock within two months, the John Adams within six weeks, and that the Constellation frigate, should it be thought necessary, may be directed, on her return from the Pacific, to cruise in the West India seas, though it is believed it would be more expensive to build additional sloops of war for that purpose.

The four first-named vessels are now undergoing repairs, and the amount necessary for this purpose is already embraced in the estimate for the present year ; so that, if they should now be directed to be put in

H. OF R.

Cadets at West Point.

MARCH, 1822.

service, it will be necessary to increase the estimates for the service of the current year not more than one hundred and twenty thousand dollars. And the committee are authorized to state, that this appropriation will not materially vary the state of the Treasury, as disclosed by the Secretary's report, because, since the date of that report, there has been transferred to the surplus fund an amount of unexpended balances of appropriations for the naval service, sufficient to meet the increased expenditure. But the committee cannot suppose, that where the safety of the commerce and citizens of the United States call imperiously for the exertion of the national force, so small an expenditure can be a matter of any moment. If the protection be necessary, it must be yielded, and the only consideration connected with the cost should be, that the money necessary to make it effectual should not be wastefully expended.

The committee further report that, in their opinion, it would be *inexpedient* for the United States to employ, arm, and equip private vessels, for this purpose. If the force already indicated be insufficient for the purpose, the committee would prefer recommending the building of additional sloops of war, rather than to purchase private vessels; which are always of inferior composition, and of unsuitable construction, and requiring repairs and an unprofitable expense, to alter and make them at all fit for public vessels.

The committee are also of opinion that it would be *inexpedient* "to authorize the destruction of persons and vessels found at sea, or in uninhabited places, making war upon the commerce of the United States, without any regular commission." And that it would be *inconsistent* with public law, or general usage, to give any authority to destroy pirates and piratical vessels found at sea or in uninhabited places."

The committee are of opinion, that it would be dangerous, and productive of great evil, to vest in the commanders of our public vessels an authority to treat as pirates, and punish without trial, even such persons as above described.

It is not necessary for the accomplishment of the objects in view that such an authority should be given, and it is essentially due to the rights of all, and the principles of "public law, and general usage," that the consequences and punishment of piracy should follow only a legal adjudication of the fact.

On the whole, the committee are of opinion, that the employment of a sufficient number of vessels in the West India seas, and the Gulf of Mexico, authorized to make captures under the existing laws and regulations, if the officers are properly industrious and enterprising, would afford all the protection required, and the committee therefore recommend the adoption of the following resolution:

Resolved, That it is expedient, forthwith, to fit out and put in service the corvettes Cyane and John Adams, and the sloops of war Peacock and Erie, for the protection of commerce, and the suppression of piracy, in the West India seas, and the Gulf of Mexico, and also to employ the frigate Constellation, should the President of the United States deem the employment of a frigate necessary for the purposes aforesaid.

The report and resolution, on motion of Mr. McLANE, were laid on the table, and ordered to be printed.

CADETS AT WEST POINT.

The resolution submitted yesterday by Mr. J. SPEED SMITH, on the subject of commuting the pay, &c., of the Cadets at West Point, was taken up; when

Mr. CANNON offered, as an addition or modification thereof, the following: "And also the number of cadets in his opinion necessary to be educated for the Army."

The modification was accepted by the mover.

Mr. SMITH, of Maryland, objected to that part of the resolution which requested the opinion of the Secretary of War. Such resolutions, he contended, should be confined to calls for reports of facts.

Mr. J. SPEED SMITH replied at considerable length to the suggestions of the gentleman last up. He was not anxious with respect to form, if the substance of his motion were preserved; but he could see nothing improper in the course he proposed, in relation to the officer upon whom the call was made; nor any thing derogatory to the dignity of the House. He had not the benefit of long experience in legislation, but he believed his proposition was neither unprecedented nor improper, &c.

Mr. WILLIAMS, of North Carolina, expressed his sentiments in conformity to those presented by the gentleman from Maryland, (Mr. SMITH,) and concluded his remarks by a motion to expunge all that part of the resolution which called for the report of opinions.

Mr. TAYLOR also made some observations on the subject, and suggested a different form of accomplishing at once the object of the mover, and of avoiding the difficulty which it was the purpose of the gentleman from North Carolina (Mr. WILLIAMS) to remove.

Mr. SMITH, of Maryland, thought it was improper to call for the expression of opinions from the departments. He referred to the practice that obtained, many years ago, of calling on the Secretary of the Treasury to express his opinions to sustain the majority that had then to contend with a formidable minority. But it was afterwards laid aside, upon a full conviction that it gave to the Departments too much influence in this House. It had never been resumed, and he hoped it never would be.

Mr. WILLIAMSON suggested the propriety of altering the resolution so as to make the call upon the President of the United States, instead of the head of the Department. This, he thought, would obviate the difficulty. It would not derogate from the dignity of this body, on the one hand, to receive such an opinion, and it would assure to the mover his object, sanctioned by the weight of the Executive of the nation.

Mr. MERCER thought the resolution unnecessary, for that the object in view had been already attained. Uniformity of apparel was already a rule of that institution. The price of subsistence and clothing was limited and defined; and he thought it was impossible for the cadets to be guilty of profusion or extravagance from the pay and rations they now receive. He considered the institution

MARCH, 1822.

Cadets at West Point.

H. OF R.

extremely important to the nation, not only in respect to the operations of war, but in promoting useful arts in time of peace.

Mr. Cook did not rise, he said, so much to discuss the merits of the resolution, as to repel the imputation of what some members heretofore seemed to consider a disrespect offered by him to the House. It was what he had for some time felt anxious to do, and this seemed to be the most fit occasion that had presented itself. When the resolution now under consideration was read at the Clerk's table, it was announced by the Clerk, that certain words were *underscored*. This he presumed was done by order of the Speaker, and therefore seemed to imply such imputation, even on the part of the Chair, as he presumed that order was produced by a discussion which had arisen in the House some days ago, upon a resolution of his, a line of which was *underscored*. In spite of his protestations, then, that he meant no disrespect, some seemed to think otherwise. He rose now to read one of four resolutions, a part of each being *underscored*; which proved, in addition to others then to be found in the Journals in his hand, that both *underscored*, as well as calls for the opinion of the Heads of Department, was neither uncommon, nor till now considered disrespectful. The resolution read by Mr. C. will be found in the Journal of the 1st Session of the 16th Congress—and relates to a call on the Secretary of the Treasury to know the price of the stocks, whether it is above par, and how long it will probably continue so—and whether it will be advisable to apply the surplus of the Sinking Fund to the current expenses of the Government rather than resort to loans and taxes. He said there were many others in which *underscoring* was to be found, and used, he had no doubt, for the same purpose that he used it, to invite special attention to that part of the subject. Mr. C. observed there were resolutions almost without number, to prove the propriety of calling for the opinions of the Heads of Departments upon matters of public concern, and upon which, from their means of information, they could be likely to give opinions and reasons therefor, which would entitle them to weight and influence. He would not take up the time of the House, however, by citing more than two others. In April, 1818, a resolution had passed, calling upon the Secretary of War "to report to this House, at the ensuing session of Congress, a plan for the application of such means as are within the power of Congress, to the purpose of opening and constructing roads and canals, as may deserve and require the aid of the Government, with a view to military operations in time of war, &c., together with such information as, in the opinion of the Secretary, shall be material, in relation to the objects of this resolution."

At the same time another resolution was adopted, "instructing the Secretary of the Treasury to prepare and report a plan, at the next session, for the application of such means as are within the power of Congress to the purpose of opening and improving roads, and making canals, &c., &c., and such information as, in the opinion of the

Secretary, shall be material in relation to the objects of this resolution."

These resolutions were both adopted, after much discussion, as he believed, and by ayes and noes. They were important in their nature—they involved a high Constitutional principle, and if it had not been proper to ask the opinion of these Secretaries, he could not think those opinions would have been asked. Whether the duty required by those resolutions had been performed by both, or either of these Secretaries, it was not material to say. He referred to them to prove that it was the practice, and he believed the right of the House, to call for such opinions, and he believed it was the right of the House to receive such opinions. And, in neither asking nor receiving them, did he consider the dignity of the House in the least impaired or abandoned.

Mr. LOWNBES was aware of no objection whatever to requiring the opinion of the Head of a Department, on a subject relating to that branch of the public service over which he presides. The opinions of a Secretary, tested by the experience which he must necessarily acquire in the affairs of his department, might be useful to the House, and a call for a statement of his opinions comported as well with expediency, as with that responsibility of the Executive officers which it was important to maintain, and which it would savor more of prudery than prudence to abstain from requiring.

Mr. FLOYD was unwilling to apply to any Secretary of a Department for any opinion whatever as a guide for the legislation of this House. So far as it regarded responsibility, this course would be of no utility, for, if any odium should attach to any measure which might grow out of the opinion of the Secretary, that odium would fall on this House—not on the Secretary. If the facts were before the House, there were few who would not be as capable of judging what would be proper as the Secretary of War, or any body else. There was nothing which conferred upon a Secretary the right to give opinions to the House; that privilege belonged to the President of the United States, but it had not been much exercised of late years. Mr. F. hoped the amendment would prevail.

Mr. CANNON believed it would not be imputed to him that he was more under the influence of Executive opinions than his friend (Mr. FLOYD,) but he certainly thought that it was sometimes useful to require the opinions of the Secretary of a Department on matters on which it might be presumed he was particularly qualified to give them. That course had been pursued in relation to the reduction of the Army, and the very plan on which the Army now stands was that furnished by the Secretary of War. The present subject was one of high importance, and he was willing to receive information from any proper source. He was, therefore, opposed to the amendment. It would deprive the House of the principal part of the information which it desired. The opinion of the Secretary of War on this subject, Mr. C. said, would have great weight with him. It was an

H. OF R.

Proposed Adjournment.

MARCH, 1822.

object on which the House ought to begin the work of retrenchment, and he wished all the light which could be obtained to guide the House in acting on it.

Mr. J. S. SMITH remarked that, in seeking the information he wanted, he had proposed to apply where it could most likely be obtained. He had not considered the station of the officer, for he cared not how elevated or how humble the source was which could furnish it. In calling on the Secretary instead of the President, it was because he thought the application should be made to the person best informed on the subject. The President could not be expected to be as well informed as the Secretary of War on this subject. The Secretary must necessarily be the most conversant with it, as he was with all his duties; for, in discharging them, he had given evidences of capacity and ability. Instances of a similar course of proceeding were numerous, as had been shown by the gentlemen from Illinois and Tennessee; and in proposing that course now, Mr. S. did not think it could be justly imputed to him that he stooped from the dignity of the House. He had, indeed, at first thought of proposing to call on the President, but as that officer would then have to call on the Secretary, he deemed it better to apply to the Secretary than adopt that circuitous mode of obtaining the object. Mr. S. said he had really been alarmed when he was accused by old members of stooping from his station and compromising the dignity of the House, and in the first moment of his trepidation, was on the point of abandoning the contested words; but he was glad to find that he proposed only what was very common, and what he was convinced was the correct course. The amendment, moreover, would still leave the resolution in such a shape as necessarily to elicit indirectly the opinion of the Secretary of War on the matter; and he thought it was much better to obtain it by a direct call on him. As, however, this subject appeared prolific of debate, and as subjects of that sort were rare, he would move to lay the resolution on the table, that it might be called up on Monday.

The resolution was laid on the table accordingly.

PROPOSED ADJOURNMENT.

Mr. RANDOLPH, agreeably to notice heretofore given, introduced a joint resolution for the double purpose of raising a committee to select and arrange such business as might be deemed indispensably necessary to be acted on at this session, and also to fix an early day for adjournment.

Mr. CANNON was willing to concur in the part of the joint resolution which contemplated a limited day for adjournment. But he was entirely unwilling to put it in the power of any joint committee to select from the orders of the day what subjects should be acted on. Experience had convinced him of the expediency of refusing to appoint any committee for that purpose, short of a majority of the House. It was desirable that equal justice should be done to all, and perfect impartiality could not be expected in the disposition of

the business, from any committee that could be selected.

Mr. ROCHESTER called for a division of the question, and the branch that related to the appointment of a joint committee to select and arrange the business necessary to be done was first in order.

Mr. WRIGHT said the House had not the necessary facts before them which could authorize them to fix a limit to the session. Three or four weeks hence it would be much easier to act on this resolution than now. Hitherto we have done almost nothing but talk, and talking, too, at the rate of four hundred dollars an hour. There was an evident *cacœthes loquendi* in the House, which, it was to be hoped, would be restrained. He (Mr. W.) came here as a public servant, to do business, and it was the duty of the House to act on the same principles in relation to their business as a court of justice would; and he was sorry that any time should be taken up in discussing this question.

Mr. SAWYER rose to inquire whether, if such a committee were raised, it could place upon the list such cases as were not referred to a Committee of the Whole, but to standing or select committees, and he adverted to a bill which he deemed of importance, in relation to the abolition of sinecure offices in certain collection districts, and which he thought should be acted on at this session.

Mr. NELSON, of Virginia, was in favor of selecting and arranging the business that was indispensably necessary to be acted on before Congress should adjourn. It was a practice of long standing, and he thought an useful, if not a necessary one.

Mr. F. JOHNSON, under the impression that the motion was premature, moved that it lie on the table.

Mr. RANDOLPH was unwilling that the sessions of Congress should be protracted to such a length that nobody fit to represent the people would be able to come here. He referred to the situations of the merchants, the agriculturist, and the lawyer, to show that such persons could not afford to remain here during a long session for the pay they received; and he feared the consequence would be that Congress would be made up of the refuse and offal of all professions, not excepting the clerical. What other great measure, he asked, had been elaborated by the committees of this House, except the Bankrupt bill? and that had been previously cut and dried. There was no more pressing or important business now than last year, when the session was limited to the 4th of March, and there was perhaps more danger of doing, than of not doing, the public business. He thought he should take the liberty of saying *no* to every proposition that should be presented to the House, before he went away—not excepting the civil list—for he was not prepared to vote away any more of the money of the people, until that which had been previously voted was fully accounted for, &c.

Mr. BALDWIN was sorry that this proposition should be brought forward at the present period of the business of the House. It was admitted on

MARCH, 1822.

Military Appropriations.

H. OF R.

all hands that very little had been done; and, if we now go home and say we have done nothing, and are inquired of for the reason of our abrupt departure, what shall be the answer. Can a satisfactory one be rendered? What would any man say to an agent to whom he had intrusted his private business that should render him no other excuse? If there had been an unnecessary waste of time, the way to redeem it was, not to go away and leave the business unfinished, but to make no such waste of more. There was important business to be done in relation to the public lands, and important claims on the Government to be adjusted. But what are we told? Are we to say no to every proposition that shall be presented? Or is it not our duty to listen and examine? Mr. B. would not say there had been an unnecessary waste of time at the present session; but, if there had not, it was very certain that it took much time to do little business. The people and petitioners have subjects before us that they expect will be acted upon—they expect that their claims will be either allowed or rejected. But it is said that if we protract the session, Congress will be filled with the refuse and offals of all the professions. But, did the gentleman from Virginia (Mr. RANDOLPH) look to the history of Congress when he made the remark? The first Congress under the Government sat almost the whole year, and Mr. B. adverted to a statement to show that the period proposed for this session was shorter than had been ever known for the first session of any Congress during the whole period of the Government. There was much business before the House. The nation was extending in its population, in its territory, and in its interest, and in all its relations. He would ask, then, whether the members of the House could feel that they had done their duty in going off before the public business was accomplished? He believed that the apology of personal inconvenience would not be accepted. Mr. B. was not disposed to abridge the freedom of debate. He believed it was suited to the genius of the Government; but it was generally found that there was too much of it at the commencement of a session, and too little at the close. With him there was but one rule, and that was to do the public business, and then adjourn.

Mr. EDWARDS, of North Carolina, was opposed to the motion. He was anxious to take measures to assign some limit to the session. By referring to the journals, it would be seen that there was usually as much business done in a short session as in a long one. Fix a time to adjourn, said Mr. E., and then, and not until then, shall we attend to business.

The question was taken on the motion to lay the subject on the table, and decided in the negative by a small majority.

MILITARY APPROPRIATIONS.

The next business in order was the consideration of the report of the Committee of the Whole on the bill making certain appropriations for the support of the Military Establishment.

The question which was under consideration,

when this subject was last up, (on Friday week,) was on agreeing to the appropriation for the Military Academy.

To this appropriation, to the amount proposed, objection was made by Mr. COCKE; whose object was to appropriate enough for the immediate support of the institution only, wishing to have a full view of the expenses, &c., of this institution, that the people might see how much the United States paid for the support of the sons of the richest men in the country.

On this subject there took place considerable debate, and on a motion to recommit the bill, in which Messrs. STEWART, MALLARY, EDWARDS, of North Carolina, F. JOHNSON, SMITH, of Maryland, MERCER, WARFIELD, NELSON, of Maryland, COCKE, and SMITH, took part.

The question to recommit the bill was taken and lost without a division.

The question was then taken on concurring with the amendment of the Committee of the Whole in filling the blank in the first section for pay and subsistence of the Army, with the sum of \$982,917, and decided in the affirmative—yeas 106, nays 45, as follows:

YEAS—Messrs. Abbot, Alexander, Allen of Massachusetts, Archer, Ball, Barber of Connecticut, Barber of Ohio, Baylies, Bayly, Bigelow, Blair, Borland, Buchanan, Burrows, Butler, Cambreleng, Campbell of New York, Cassedy, Causden, Condict, Cook, Cushman, Cuthbert, Dane, Darlington, Dickinson, Durfee, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Farrelly, Findlay, Fuller, Gorham, Gross, Hardin, Hawks, Hemphill, Herrick, Hill, Hobart, J. T. Johnson, J. S. Johnston, Jones of Tennessee, Kent, Kirkland, Lathrop, Lincoln, Litchfield, Lowndes, McCarty, McCoy, McDuffie, McLane, McSherry, Mattocks, Mercer, Milnor, Mitchell of Pennsylvania, Montgomery, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Morgan, Neale, Nelson of Maryland, Nelson of Virginia, Newton, Patterson of New York, Pierson, Pitcher, Plumer of Pennsylvania, Poinsett, Rankin, Reed of Massachusetts, Rhea, Rich, Rogers, Ruggles, Russ, Sanders, Sawyer, Scott, Sergeant, S. Smith, W. Smith, Alexander Smyth, J. S. Smith, Spencer, Sterling of Connecticut, Sterling of New York, Swan, Swearingen, Tatnall, Taylor, Tod, Tomlinson, Upham, Vance, Walworth, White, Williamson, Wood, Woodcock, Worman, and Wright.

NAYS—Messrs. Allen of Tennessee, Baldwin, Bassett, Bateman, Blackledge, Campbell of Ohio, Cannon, Chambers, Cocke, Colden, Conkling, Conner, Crafts, Crudup, Edwards of North Carolina, Gist, Jackson, F. Johnson, Jones of Virginia, Keyes, Leftwich, Long, Mallary, Matlack, Matson, Metcalfe, Murray, Patterson of Pennsylvania, Phillips, Plumer of New Hampshire, Randolph, Reid of Georgia, Sloan, Arthur Smith, Stewart, Thompson, Tracy, Tucker of South Carolina, Tucker of Virginia, Van Wyck, Warfield, Whipple, Williams of North Carolina, Williams of Virginia, and Wilson.

The subsequent sections in the bill were respectively put and carried, without a division.

Mr. EDWARDS, of North Carolina, moved to strike out from the fifth section the words, "and for the purchase of woollens for the year 1823,

H. OF R.

Increase of the Navy.

MARCH, 1822.

the sum of \$75,000." He opposed this appropriation on the ground that it was introducing a new mode of conducting the purchasing department, and also because it was too far prospective, as we might as well legislate, he said, in the next session as now for an appropriation for the year 1823.

The question was then taken on his motion, and lost.

Mr. MALLARY remarked, that it had always been deemed correct policy to make appropriations specific, wherever, in the nature of the case, it was possible to make them so. He had voted in the negative on the question for recommitment only, for the reason that he wished to present distinctly the expenditures for the Military Academy; but he believed it could be attained in a different way, without embarrassing the bill—and, with that view, he would submit the following amendment, to be inserted at the end of the provision for pay and subsistence of the Army: "including the sum of \$86,900 for the pay and subsistence of officers and cadets belonging to the Military Academy at West Point."

Mr. GOLDEN explained his object in voting in the negative on the former question to be merely for the purpose of admitting such a proposition as was now before the House. Mr. C. expressed his decided conviction of the utility of the establishment, but hoped the amendment of the gentleman from Vermont (Mr. MALLARY) would prevail.

The amendment was then put and carried.

Mr. CHAMBERS moved to insert, in the fifth section, after the word "woollens," in the sixth line, the words "of American manufactures;" but, after a few explanatory observations by Mr. SMITH of Maryland, he withdrew his motion; when the bill was ordered to be engrossed for a third reading on Monday next.

MONDAY, March 4.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill to revive and amend the several acts imposing duties on imports and tonnage; which bill was read twice, and committed to the Committee of the whole House on the state of the Union.

Mr. EUSTIS, from the Committee on Military Affairs, who were instructed to inquire into the number of cadets admitted into the Military Academy since 1817, inclusive, with the number of dismissals, promotions, &c., made a report thereon, accompanied by a bill concerning the said academy; which bill was read twice, and committed to the Committee of the whole House on the state of the Union.

Mr. NELSON, of Virginia, from the committee appointed on the 6th ultimo to revise the standing rules and orders of proceedings in this House, made a report, recommending sundry alterations and additions thereto; which report was read, and ordered to lie on the table.

Mr. McLANE, from the Committee on Naval Affairs, to whom was referred, on the 10th December last, so much of the President's Message as relates to naval stores and munitions of war,

appertaining to the Naval Department, made a report thereon; which was read, and ordered to lie on the table.

Mr. WILLIAMS, of North Carolina, laid on the table the following resolution:

Resolved, That the President be requested to inform this House whether that portion of the Army of the United States, now in Florida, is commanded by the officers of the said Army, or by the Secretary of the Territory, and, if by the latter, by what authority he is invested with such command.

Mr. BASSETT called for the consideration of a report heretofore submitted to the House by the Committee on Pensions and Revolutionary Claims, adverse to the petition of R. G. Morris; and moved so to amend the report as to grant the prayer of the petitioner.

Mr. BASSETT explained the grounds of the petition at considerable length; when

Mr. RHEA moved that the same be referred to a Committee of the Whole. This motion was opposed by Mr. BASSETT, and further supported by Mr. LITTLE; when the question was put and carried to refer it as proposed.

On motion of Mr. POINSETT, it was

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of establishing a beacon on Charleston bar.

INCREASE OF THE NAVY.

Mr. TRACY called for the consideration of a resolution by him submitted on the 1st instant, proposing instructions to the Naval Committee to inquire into the expediency of recommending a modification of the annual appropriation for the gradual increase of the Navy, so as to authorize the construction of vessels of a smaller size than those now authorized by law. The House agreed to consider the resolution.

Mr. FULLER said, he did not mean to object to the inquiry proposed by the resolution now before the House; but to state that the Naval Committee had already taken this subject under consideration, and that the proposed instruction was therefore wholly unnecessary.

Mr. LOWNDES said he did not mean to oppose a resolution for inquiry, to which the gentlemen composing the committee did not themselves object. But, should the proposition suggested in the resolution ever grow into a provision of law, the effect of it would be, not to increase, but to diminish, the naval power of the United States. The policy of the Government, in pursuance of which the annual appropriation for naval purposes was made—and he thought it a wise policy—was, to provide in peace a number of those larger vessels, which cannot be procured or built on a sudden emergency. Vessels of a smaller class there would be no difficulty in procuring at any time. The effect of such a measure as this resolution looked to would be to change entirely this provident policy of the Government, and in fact to diminish the naval force of the country. Such a course, he hoped, though there might be no objection to inquiry respecting it, would never receive the sanction of the Naval Committee.

MARCH, 1822.

Increase of the Navy.

H. OF R.

Mr. CAMBRELENG did not rise for the purpose of opposing the inquiry, nor to express any opinion at that time on the question involved in the resolution proposed by his colleague, (Mr. TRACY,) but to remind him that a report was presented on Saturday, by the Naval Committee, which was not yet printed. That report embraced information partially relating to the subject of the gentleman's inquiry. He would, therefore, suggest to him the propriety of allowing the resolution to remain on the table for the present.

Mr. HARDIN considered it the duty of our Government to protect our commerce against the piratical depredators that now infested it, and he did not think there were vessels enough of the United States fit for service, of a class calculated for the purpose. Our seventy-fours will not answer, and, unless some part of the annual appropriation for the increase of the Navy is directed to this object, he feared they would not be built. That appropriation has been applied to the building of large vessels only, which are wholly unsuited to the contingency that now calls for an efficient naval force. Mr. H. did not believe that the nation could afford, under its present embarrassments, more than \$500,000 for the sum total of expenditure for building vessels of war. It was necessary to make some application of the public funds to the protection of our commerce. And it seemed proper for that purpose, that there should be a divergence from the fund in question to that object. The subject had been before the Committee on Naval Affairs for a month, and he hoped the resolution would be adopted—and perhaps, by a special instruction from this House, they might be induced to go on to the object with more zeal and effect.

Mr. BASSETT hoped the resolution would be suffered to lie on the table. He believed the chairman of the Naval Committee was now employed on this very subject, and the adoption of the resolution would be superfluous. He, therefore, moved that it be laid on the table.

Mr. TRACY said he had not anticipated any objection to the resolution. At the suggestion of the chairman of the Committee on Naval Affairs, he had assented to laying the proposition on the table on the day he had presented it. Mr. T. could see no objection to its adoption, nor any reason for laying it longer on the table. The Naval Committee may indeed make all necessary inquiry and examination without it; but, if its passage could do no good, it was not likely to be attended with harm. It would impose no additional labor on the committee, and he could not but hope it would now be adopted.

Mr. HILL said he had no hostility to this inquiry; but the Naval Committee had informed the House that they had this subject under consideration. What occasion was there then for passing this resolve? If the Naval Committee should not report upon the subject to the House within a few days, the gentleman would then have an opportunity to call up his resolution, if he chose.

Mr. FULLER said, that it was true that the Naval Committee had this subject under considera-

tion, but rather incidentally than directly, the inquiry having grown out of the resolution instructing them to inquire into the expediency of building an additional number of small vessels of war. He trusted he was as much a friend to the Navy as the gentleman from South Carolina, or any other member of the House. But he was not sure that something in the nature of the proposition now before the House might not be advisable. It was more than a year ago that information had been given to the House, that nearly all the timber for the larger vessels had been already procured under the appropriation of a million of dollars for eight years. It had been thought better by the Naval Committee, at a former session, and it had accorded with the general views of the Navy Commissioners, to bring the large vessels to a certain state, and secure them in that condition, without going on now to equip them, or to purchase the perishable articles necessary for that purpose. The eight millions was enough to build, and also to equip the vessels authorized to be built. As, however, they are not now to be equipped, there would be a balance of that appropriation remaining unapplied—and the subject for inquiry was, whether a portion of it should be applied to the building of smaller vessels? This, he thought, was a subject very proper for inquiry.

Mr. LOWNDES said he did not wish to be considered as objecting to the inquiry, which could not possibly do any harm. He was therefore sorry it had been proposed to lay the resolve on the table, and hoped the inquiry would be agreed to.

The motion to lay the resolution on the table was negatived.

Mr. COLDEN was opposed to the adoption of the resolution. It was urged in its favor, that it was clear and unambiguous. It was on that very ground that he felt it his duty to oppose it, for it distinctly proposes a diversion of the Navy fund from the object for which it was appropriated. The purpose of suppressing piracies was a temporary object—at least it was hoped that it would prove so. It was necessary that there should be a force employed to protect our commerce against the piratical cruisers in the Gulf of Mexico, on the western shores of the Continent, and to enforce an observance of the laws in relation to the slave trade. It was obvious, that the provision for this service would be a temporary one, and it therefore ought not to be incorporated into the permanent establishment of our Navy. The multiplication and employment of small vessels, he contended, were not favorable to the prosperous condition of a navy. They did not induce a habit of discipline, nor did they contribute to an experience that would be beneficial and necessary on board a large vessel. He thought in these respects they were rather prejudicial to the service than otherwise. The fund of \$500,000 per annum was not appropriated for a particular event, or for temporary objects, but it was a gradual preparation in time of peace, to meet the exigencies of war. It would be recollected that the sum of \$500,000 per annum was a reduction of one half from the amount of the original appropriation, which was one million of

dollars. That appropriation was made at a time when the glory achieved by the Navy was fresh in the mind, and when the memory of its heroism had not faded from the heart. It was at a time when, without disparagement to the gallantry of our arms in the other departments, it seemed to be admitted by all that more was owing to the Navy than any other, for success in the conflict. The experience of the war convinced every one that, whether we contended for protection of the seaboard, or supremacy of power, the Navy was our safest reliance. The sentiment was universal that the establishment ought to be kept up and gradually increased;—and a system of policy, founded on experience, he (Mr. C.) did not feel himself disposed hastily to abandon.

It had been said, however, that this was a resolution for inquiry only. But Mr. C. contended that it was not entirely nugatory—if it was intended to have any efficacy, its effect must be pernicious. The very contemplation of a change in our naval policy was injurious. If the sum which the resolution undoubtedly contemplates be taken away, what becomes of the general appropriation? You cannot increase the Navy under it. You must have, in each case, a force competent to meet the force to which it is opposed—a force adequate in the Pacific to meet the marauders in that quarter—in the Gulf of Mexico, to suppress the lawless depredations that are committed in the vast expanse of its waters—and on the coast of Africa, that may detect and cope with the desperate adventurers who continue the trade in human flesh. And these armaments are to be fitted out at the expense, and in reduction of the fund for the general increase of the Navy. What would be left for the purposes contemplated by the founders of that fund, it was easy to imagine. It was said by the gentleman from Kentucky, (Mr. HARDIN,) that the country could not afford an expense beyond \$500,000 for the increase of the Navy. To this proposition he could not assent. He could not agree that this nation was incompetent to provide funds for the protection of its commerce and independence. While this country was enjoying the blessings of peace—its fields and harvests smiling under the culture of the husbandman—its canvass whitening the bosom of every sea—its adventurous sons penetrating the forest, and the people participating in all the bounties that a kind Providence ever showered upon any nation on the earth, it was in vain to contend that our resources were inadequate to our protection. For these reasons, Mr. C. was opposed to a diversion of any part of the fund to other objects than those to which it was originally appropriated. Mr. C. was willing to make a suitable provision for the suppression of piracy, but he thought it would be madness to do it at the expense of a permanent fund for a permanent object, in which the honor and character of the nation were essentially involved.

Mr. HARDIN remarked that the argument of the gentleman last up would lead to the conclusion that it was madness to divert from a large naval fund a sum for the building smaller vessels, in

lieu of those of a larger description. He had understood that there were a variety of objects to be attained in the naval service, and for the attainment of those objects vessels of various descriptions were necessary. Regular pitched battles, Mr. H. said, in which seventy-fours were desirable, were not the occasions in which smaller vessels were wanted, nor were they occasions of frequent occurrence. To annoy the commerce of an enemy was a primary object in war, and to protect our own in peace. If we could appropriate the necessary money for this purpose without resorting to loans or taxes, it would not be an object of so much importance. But this he contended could not be done; and the smaller vessels that were contemplated by the resolution would be useful, not only in the suppression of piracy now, but in the prosecution of war hereafter. If the resolution was not adopted, he feared the smaller vessels proposed would not be built, nor our commerce protected. It had been said that the fund for the increase of the Navy had been reduced one-half, but he read from the laws of the United States to show that the fund had not been broken in upon, but only prolonged, and that instead of an appropriation of one million per annum for the three years remaining of the eight, it had been separated into six annual appropriations of \$500,000 each, which was equivalent to the aggregate.

Mr. BASSETT did not know but it might be one of the effects of age that all changes were unpleasant, but he felt a greater repugnance at departing from the line of policy that had been heretofore established on this subject. He was opposed to the resolution. We are now told, he said, that all classes of vessels were wanted in time of war. This was a proposition that no person could doubt. It was as well understood at the time when the fund for the increase of the Navy was established, as it could be now. But the question then was what gradual increase of your Navy will you make in time of peace to meet the exigencies of war? And in view of this question it was then determined to build such vessels in time of peace as might be ready in time of war, and which in time of war could not be built to answer the purpose of the Government. Of this description were 74's and other large vessels of war. If one or two sloops were wanted to attack the pirates, that was one thing; but it seemed to be brought forward as a plan to be incorporated into the general system of our naval establishment. It was said, indeed, that this resolution only proposed inquiry. But he could not consent to it even in that shape. He objected to the principle. He believed it to be wrong. He thought so eight years ago, and had found no reason to change his opinion. He was unwilling, in this case, to give impliedly to a committee the power of reconsidering a system of naval policy that had been deliberately, and, in his opinion, wisely decided upon. There was then, he would admit, as there is now, a difference of opinion; and even the naval commissioners at first reported in favor of building, *pari passu*, 74's, frigates and sloops of

MARCH, 1822.

Military Appropriations.

H. OF R.

war. But further reflection had induced them and Congress to resolve upon building, in time of peace, such only as could be built in time of war. Experience had shown that a sloop of war could be built in twenty-nine days; and where was the necessity of building, perhaps twenty-nine years before the war broke out, a description of vessels that could be built in twenty-nine days? Mr. B. referred to an able paper on the subject, written by Com. Stewart, in which it was clearly evinced that, on principles of economy, it would be expedient, in a ratio of four to one, as to efficiency, to build large vessels rather than small. He was satisfied, also, that large vessels contributed more, as had been stated by the gentleman from New York, (Mr. COLDEN,) to the advancement of discipline and nautical science than smaller vessels. He could perceive no object of a beneficial character to be produced by it, unless it was to make more berths for young naval officers; but that, he thought, was not a sufficient reason for adopting a dangerous political experiment.

Mr. TRACY thought the subject was a proper one for inquiry, and not so palpably wrong as gentlemen seemed to apprehend. If it were so, there could be little danger in adopting it. A proposition so very absurd would at least be harmless; and probably the Naval Committee, if they adopted the sentiments of his colleague, (Mr. COLDEN,) would report decidedly against it, to avoid the imputation of madness, and the House, with equal zeal, and for the same reason, would unanimously hasten to concur in the report. Mr. T. did not feel entirely prepared to determine whether it was expedient to divert a part of the general fund for the increase of the Navy to this object or not, but he really thought it was a fit subject for inquiry; and he would confess that he felt a little suspicious of that kind of wisdom in which the decision precedes the inquiry. Mr. T. expressly disavowed any attack on the naval policy of the country. On the contrary, he was so much its friend that he did not fear the most full and frequent inquiry into it; and he contended that this resolution had relation rather to the fiscal than the naval concerns of the nation. He thought the country would not consent to appropriate more than \$500,000 per annum for that service, and it was seriously important in what manner that sum should be applied. It did not follow, he contended, that he was hostile to the present policy, because he wished to inquire into the propriety of applying those resources to the building of such vessels as are not now useful. No vessels less than 44's were now authorized to be built, but certainly 38's, 32's, and 28's, and sloops of 24 and 18 guns, were efficient both in operations of war and on incidental cruises. At all events, the inquiry could not be injurious, and he hoped the resolution would be adopted.

The resolution was agreed to.

SUNDAY MAILS.

Mr. WRIGHT submitted for consideration the following resolution:

Resolved, That the Committee on the Post Office

and Post Roads inquire into the expediency of preventing the carriage of the mails on the Sabbath day, and that they report by bill or otherwise.

Mr. WRIGHT rose to address the Chair in support of the resolution. The following has been furnished by Mr. W. as being the substance of his remarks:

Mr. Speaker, I am requested by a number of my constituents to endeavor to effect a regulation in the carriage of the mails, so as to prevent their being carried on the Sabbath day. We now enjoy a profound peace, with all the nations of the earth, under the kind providence of the great Benefactor of the Universe, who has inscribed on the heart of the whole human family his law, "to keep the Sabbath day holy." It will be recollected that even during the late war, when this subject was before this House, that I then advocated this restriction as far as practicable, not inconsistent with the best interest of my country; and I have a perfect confidence that my devotion to the prosecution of that war by the exercise of all the energies of the nation will never be forgotten. I have sir, during the war, advocated this measure, as will appear by the votes and proceedings in that case. Sir, in every State in this Union there is a law making it penal to violate the Sabbath by any work or labor. Sir, the right of Congress to direct the carriage of the mail on the Sabbath day, ought, in its execution, to be so exercised as neither to violate the divine law nor in any manner to authorize the violation of the laws of the States, unless in such cases as necessity may impose, in which we shall find our justification even in the divine law. I have consulted the Postmaster General on this subject, and am happy to inform this House that it meets his approbation in a certain degree.

Mr. TAYLOR, of New York, required the question that the House do now consider the resolution; which question being taken, it was decided in the negative. So the House refused now to consider the resolution.

MILITARY APPROPRIATION BILL.

The orders of the day being then called for, the bill making an appropriation for the support of the Military Establishment for the year 1822, was read a third time, when Mr. COCKE moved to recommit the bill for the purpose of correcting a mistake which he had been instrumental in producing in the bill, in which he had supposed that \$86,900 would cover the expenditures for the year of the Military Academy. He had since ascertained that the sum of \$98,139 would be necessary for its support on its present footing, and it was with the view of correcting that error in the bill that he proposed the recommitment of it.

Mr. RANDOLPH made remarks at some length in favor of a recommitment, with views more comprehensive than those of Mr. COCKE.

Mr. VAN WYCK felt it his duty to vote against this bill in its present shape and at this time. He would, however, not vote against it because he had no confidence in the Committee of Ways and Means, who have reported it; nor should he vote

H. OF R.

Military Appropriations.

MARCH 1822.

against it because he had no confidence in the chairman of that committee. I have, said Mr. V. W., not only the utmost confidence in that committee, but in the gentleman who is at the head of it; if nothing more than his zeal and industry on this floor would, if I entertained any suspicions, entirely destroy them. Nor shall I vote against this bill because I have no confidence in the Administration, who are to disburse the money after we have appropriated it. Indeed, sir, the Executive part of this Government, the President and Secretary, are far above my suspicions. Selected from amongst the most intelligent, experienced, and highminded citizens of our country, and by ourselves too, I think it not only shows a want of a correct knowledge of human nature to suppose that either of them would misapply or waste the public money; but, what is still more, I think it shows a great want of magnanimity on our part not to desist from these insinuations. But, sir, I shall vote against that bill because I think it high time that this Government curtailed its expenses. Indeed, sir, the very moment after the peace of 1815, steps ought to have been taken to have returned to the old Peace Establishment of 1808 and 1809. At peace, as we now are, with all the world—not a nation, that I know of, that would raise a finger against us—it can, therefore, no longer be necessary to keep up this expensive and imposing attitude. If, under the old Peace Establishment, when Mr. Jefferson administered this Government, when we were every day threatened with a war, a reliance could then be placed on ourselves, or rather on the militia of our country, I think at this time the same confidence may again be restored. Under that Administration, for eight years, the whole sum appropriated for the Military Department was but \$11,295,625, or the annual average appropriation was only \$1,412,075. But, sir, what does this bill require; or, rather, what does the Secretary say will be necessary for the year 1822? Not less than \$5,165,896 19. In two years, then, in a profound state of peace too, we now require as much as was then used in eight years, although the country was in a partial state of war.

Let us take another retrospect. During the eight years of Mr. Jefferson's Administration, the whole revenue of the country averaged annually but \$13,363,860, and with it was not only paid all the current expenses of the Government, but the national debt was sunk \$40,000,000. But, sir, for the last two years the average annual revenue of the United States has been \$15,054,511. And with it, sir, what have we done? Not only the whole of this has been expended, but the national debt has been increased \$4,524,272 16. With an annual revenue of \$1,690,711 more than was received under the Administration of Mr. Jefferson, we have actually swelled our debt more rapidly than it was ever done in the most prodigal days of the Federal Administration. If, sir, it is intended to be profuse with the public money, I hope it will be backed at once with a bill for a direct tax of five or ten millions. Let the people see our drift. I am certain that they will, as in 1799 and 1800,

come out and meet us on this subject. For a young nation, so remote from danger, and one, too, who has so lately experienced a total loss of pecuniary credit in time of war, so soon to forget this; so soon to forget that economy, and the discharge of our debts in time of peace, are the only solid base for a good credit in time of war; and so soon, too, to forget those excellent lessons left us by that legislative body under the Administration of Thomas Jefferson, I think, augurs nothing favorable.

I hope, however, that the chairman of the Committee of Ways and Means will take no exceptions at what I have said; for I do not think that he has done any thing more than was required. He has reported to us a bill predicated upon the existing laws of his country. What less could he have done? If you will so continue the form of your laws as to keep up a large military establishment, do you expect that the Secretary of War will be able, without our assistance, to maintain them? If you will build 74's, and display them upon the ocean in time of peace, you cannot expect that the Secretary of the Navy, nor any other Secretary, will do it at their own expense. And, though not exactly applicable, if you will swell this representative body and pay us eight instead of six dollars a day, you must expect that these trifling items, as they have been called, will also swell the mass. From pennies pounds are produced. From our inattention to these little insignificant sums, as they have been so sarcastically called, of 1, 2, 3, or 400,000 dollars each, when they appear in the aggregate, astonishment will be produced and suspicion but too often succeeds.

So sir, it is not the fault of the Committee of Ways and Means. It is not the fault of the Executive part of this Government. We are a free and independent branch; let us do our duty, and if the others will not concur in altering a set of laws that have drained our Treasury, swelled our debt, and actually baffled the skill of our financier to furnish the means, let them be accountable to the proper authority—to the people.

Our course now, I hope, will be to recommit this bill, with instructions to bring in a partial appropriation bill, to answer the immediate exigencies of Government, and not to pass the general bill until after that select committee have reported, to whom was referred an inquiry into the modification of our laws, so as to replace us upon the old Peace Establishment of 1808 and 1809. When that is done, and we have altered our laws, it will then be time enough to bring in a general bill predicated upon those laws.

After some further remarks from Mr. COCKE, the question was taken on the proposed recommitment, and decided in the negative—ayes 37.

The question then being on the passage of the bill, and Mr. RANDOLPH having required the yeas and nays thereon, (his leading objections being to the appropriation for clothing of the Army so far in advance as for 1823,) the yeas and nays were taken accordingly; and there were—for the bill, 133; against it, 23—as follows:

YEAS—Messrs. Abbot, Alexander, Allen of Massa-

MARCH, 1822.

Proceedings.

H. OF R.

chusetts, Allen of Tennessee, Archer, Baldwin, Barber of Connecticut, Barber of Ohio, Bateman, Baylies, Bayly, Bigelow, Borland, Brown, Buchanan, Burrows, Butler, Cambreleng, Campbell of New York, Campbell of Ohio, Cannon, Cassedy, Causden, Chambers, Colden, Condict, Conkling, Conner, Crafts, Crudup, Cushman, Cuthbert, Dane, Darlington, Denison, Dickinson, Durfee, Dwight, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Eustis, Farrelly, Fuller, Garnett, Gist, Gorham, Gross, Hardin, Harvey, Hawks, Hemphill, Hendricks, Herrick, Hill, Hobart, Holcombe, Hubbard, Jackson, J. T. Johnson, Jones of Tennessee, Kent, Keyes, Kirkland, Lathrop, Lincoln, Litchfield, Little, Long, Lowndes, McCarty, McDuffie, McLane, McSherry, Mallary, Matlack, Mattocks, Mercer, Milnor, Mitchell of Pennsylvania, Montgomery, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Morgan, Murray, Neale, Nelson of Massachusetts, Newton, Patterson of New York, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Reed of Massachusetts, Reid of Georgia, Rhea, Rich, Rogers, Ross, Ruggles, Russ, Russell, Sanders, Sawyer, Scott, Sloan, S. Smith, Alex. Smyth, Spencer, Sterling of Connecticut, Sterling of New York, Stewart, Swan, Swearingen, Tattall, Taylor, Tod, Tomlinson, Upham, Vance, Walworth, Whipple, White, Williamson, Wood, Woodcock, Woodson, Worman, and Wright.

YAYS—Messrs. Ball, Bassett, Burton, Cocke, Edwards of North Carolina, Floyd, Hooks, F. Johnson, Jones of Virginia, Leftwich, McCoy, McNeill, Matson, Metcalfe, Nelson of Virginia, Overstreet, Randolph, Arthur Smith, Tucker of South Carolina, Van Wyck, Walker, Williams of Virginia, Williams of North Carolina, and Williams.

The title of the bill being now under consideration, Mr. RANDOLPH moved to amend the bill (to make it conform to its contents) by adding to the title the words "and towards the service of the year 1823;" which motion was agreed to. And the bill was sent to the Senate for their concurrence therein.

The Bankrupt bill was the next subject in the order of the day; and, being called up, a motion was made to adjourn, and negatived—68 to 62.

A motion was then made by Mr. BASSETT, to postpone the orders of the day until to-morrow; when the motion to adjourn was renewed, and carried—74 to 63. And so the House adjourned.

TUESDAY, March 5.

Mr. NEWTON, from the Committee on Commerce, to whom was referred the bill from the Senate, entitled "An act further to establish the compensation of officers of the customs, and to alter certain collection districts, and for other purposes," reported the same with sundry amendments; which were read, and, together with the bill, committed to a Committee of the Whole.

Mr. COOK, from the Committee on the Public Lands, to whom was referred sundry petitions from the inhabitants of Illinois, praying for a confirmation of their respective land claims, made a report thereon, accompanied by a bill confirming their said claims; which bill was read twice, and committed to a Committee of the Whole.

Mr. METCALFE, from the Committee on Indian Affairs, moved, on behalf of that committee, the following resolution:

Resolved, That the Committee on Indian Affairs, to which was referred the report of the Reverend Jedidiah Morse, made by him in pursuance of the objects specified in his commission from the President of the United States, bearing date the 7th of February, 1820, be discharged from the further consideration thereof, and that the said Reverend Jedidiah Morse have leave to withdraw the same, and also the accompanying documents.

The resolution was read, and, on the question to agree thereto, it passed in the affirmative.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of the President and Directors of the Planters' Bank of New Orleans," and a resolution directing an adjournment of the present session of Congress on the first Monday of April next; in which bill and resolution they ask the concurrence of the House.

On motion of Mr. WILLIAMSON, the Committee of Ways and Means were instructed to consider the expediency of extending for a further time, or making perpetual, the "Act to provide for the collection of duties on imports and tonnage," passed March 3d, 1815, and another act to continue in force the preceding one, passed 3d of March, 1817, which expired on the 3d of March current.

On motion of Mr. STEWART, the Committee on Roads and Canals were instructed to inquire into the expediency of appointing commissioners to examine and report as to the practicability and probable expense of connecting by a canal the Potomac and Youghagany rivers, uniting the Eastern with the Western waters.

Mr. WRIGHT moved the House that it do now proceed to consider the resolution submitted by him yesterday, inhibiting the transportation of the mail on the Sabbath day. And, the question being taken, it was again determined in the negative.

A bill from the Senate for the relief of the President and Directors of the Planters' Bank of New Orleans, was twice read, and committed to the Committee of Ways and Means.

A joint resolution from the Senate for fixing the time of adjournment of the present session of Congress (first Monday in April) was read a first time; and, on motion of Mr. HILL, was laid on the table.

Mr. CONDUCT moved that the select committee to which was referred, on Friday last, the additional report and documents received on that day from the Secretary of the Treasury in relation to the Cumberland road, be discharged. And the question thereon being taken, it passed in the affirmative. It was then ordered that the said report be referred to the Committee on Roads and Canals.

Mr. HEMPHILL from the Committee on Roads and Canals, reported on the petition of sundry inhabitants of the State of Maine, for the laying out and constructing a road from Bangor to Rob-

H. OF R.

Alteration of the Hall.

MARCH, 1822.

instown, recommending that nothing special be done in this case, because a survey, &c., would come within the scope of the general bill on that subject now before the House; which report was ordered to lie on the table.

Mr. HEMPHILL further reported favorably on the petition of sundry inhabitants of Gloucester, in the Commonwealth of Massachusetts, which report, though favorable to the object, was to the same effect as in the preceding cases.—Ordered to lie on the table.

Mr. HEMPHILL further reported upon the petition of Isaac Baker, that it is inexpedient to grant the prayer of the petition, the evidence furnished not being satisfactory as to the practicability and utility of such a mode of conveyance, and that the petitioner have leave to withdraw his petition; which was concurred in.

Mr. HEMPHILL further reported unfavorably upon the petition of John Adams, praying an allowance in addition to his stipulated compensation by contract for making a part of the Cumberland road; which report was, on motion, ordered to lie on the table.

Mr. JOHN SPEED SMITH, from the committee to whom was referred a resolution on the subject, reported a bill to abolish imprisonment for debt; which was twice read, and committed.

The House then proceeded to the consideration of the resolution proposed yesterday by Mr. WILLIAMS, of North Carolina, requiring information of what authority is invested with the military command in Florida; and the same was agreed to.

Two Messages were received from the PRESIDENT OF THE UNITED STATES, as follow:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the 22d ultimo, requesting the President of the United States "to cause to be laid before this House a statement showing the amount of woollens purchased for the use of the Army during the years 1820 and 1821, comprising a description of the articles, of whom the purchases were made, at what prices, and what proportion thereof was of American manufacture," I herewith transmit a report from the Secretary of War. JAMES MONROE.

WASHINGTON, March 4, 1822.

The Message was read, and, together with the report accompanying the same, was ordered to lie on the table.

To the House of Representatives of the United States:

I transmit a report from the Secretary of the Navy, communicating information in relation to the Navy of the United States, requested by a resolution of the House of Representatives of the 14th ultimo.

JAMES MONROE.

WASHINGTON, March 4, 1822.

The Message was read, and, together with the report accompanying the same, was referred to the Committee on Naval Affairs.

FLORIDA AFFAIRS.

Mr. ARCHER moved that the House do come to the following resolutions:

1. *Resolved*, That the appointment, during the past year, of a Governor of the provinces of East and West Florida, invested with larger powers than were "ex-

ercised by the officers of the existing government" of said provinces at the time of their delivery to the United States, was not authorized by the act of the last session of Congress, entitled "An act for carrying into execution the treaty between the United States and Spain, concluded at Washington, the 22d of February, 1819."

2. *Resolved*, That the appointment of a Governor of the provinces of East and West Florida, with authority to exercise supreme executive powers within the same, was a contravention of the Constitution of the United States.

3. *Resolved*, That the arrest and imprisonment, in the month of August last, in Pensacola, in the province of West Florida, by order of the chief executive officer therein, of Don Jose Callava, then or recently charged with the functions and character of a Commissioner of the Government of Spain, were in contravention of the immunities attached to the condition of agents of a public character, by the law and usage of civilized nations.

4. *Resolved*, That the issuing, about the same time, by the same officer, of a citation, in the nature of a process of contempt, against a person holding the commission of a judge of the United States within the said province, for an alleged undue discharge of a judicial function, was a proceeding not warranted by any legal authority vested in the said officer.

Mr. ARCHER was proceeding to state the motives which induced him to offer the resolves; when

The question to *consider* the resolves (which admits of no debate) was put, and decided in the negative. So the House refused "now to consider" these resolutions.

ALTERATION OF THE HALL.

Mr. MERCER submitted the following resolution:

Resolved, That the Committee on Public Buildings be instructed to inquire whether such an alteration can be effected of the Hall now occupied by the House, as will fit it for the purposes of a deliberative assembly; and, if this be deemed impracticable, whether a suitable apartment can be provided in the centre building of the Capitol for the accommodation of the House of Representatives.

Mr. WOOD proposed to amend the resolution by inserting, after the word "*Resolved*," the following:

"That the Committee on Public Buildings be instructed to inquire into the expediency of changing the position of the Speaker's chair, and of placing it in front of the present entrance into the Hall; and, also, of arranging the seats of the members parallel with the diameter of the Hall, so as to front the Chair in its new position."

On this motion for amendment some debate took place, in which the properties of sound, the disadvantages of the present arrangement of the Hall for hearing, and the benefits likely to result from a change of it, were discussed.

Mr. WOOD stated that he had been on a committee during the last session, whose duty it was made to inquire whether any alterations could be made in the Hall of the House of Representatives, to render the voices of the speakers more audible; which committee, after much examination, reported, that a glass ceiling spread over the Hall, at the

MARCH, 1822.

Army Expenditures.

H. OF R.

foot of the dome, would, in their opinion, be the most eligible mode to attain the object desired, but that the committee, for reasons contained in their report, forbore to urge the immediate adoption of the plan suggested by them, nor did the House then seem inclined to adopt it.

Mr. W. observed that the same difficulty then complained of, was not removed by the drying of the walls, and the carpeting the gallery, as was hoped would be the case, but it still existed. That, from the construction of the room, and the arrangement of the seats, it was impossible that the voice from many positions in the House should be distinctly heard by all the members; that in consequence of this, many important observations, especially of the elder members, were totally lost.

These evils, said Mr. W., arose from a radical error in the construction of the room; it was formed on the plan of the ancient Grecian theatres, in which the principal object was to give effect to the voice of the actors.

The building was, like this hall, a semicircle, the stage where the actors spoke was like our Speaker's chair, on the line of the diameter of the circle, and the hearers sate on seats placed around the inner circle of the semi-circle, and fronting the stage, in the same manner as the members of of this House are seated.

This construction is well calculated for the purpose for which it was originally designed and employed, and may answer a good purpose in all cases where the assembly are merely hearers, but is the very worst plan that could be devised for a deliberative assembly; it confines the speakers to the seats destined for the hearers in the ancient theatres. In a deliberative assembly all are speakers as well as hearers, and the hall for their deliberations should be constructed with reference to this circumstance. The position of members in concentric semicircles fronting the diameter, is the least eligible that could be contrived, for distinct perception of the voice.

The tendency of sound is to expand every way; but the force and intensity of sound depends on its compression—the excellence of a room intended for a deliberative assembly, is its capacity to compress the sound of the voice, and to preserve its uniformity; and the greatest merit of the artist consists in rendering the obstructions which the voice must necessarily meet in an enclosed room, subservient to these purposes.

Every member that rises to speak, turns his face to the chair—the voice expands horizontally to the extent of the diameter, and perpendicularly to the dome; it is broken by the projections and single columns it meets in its horizontal direction, and the various angles it forms with these obstructions create more reverberations, and a greater complication of the echo, or resonance, than any other direction of the voice could produce. Experience proves, that the best forms of rooms for deliberative assemblies, are squares and rectangles, in which the sound of the voice will pervade every part of the room, and in which the form of the walls contributes to compress the voice, and augment the intensity of the sound.

It is impossible, said Mr. W., to change the form of this Hall. The most practicable means of correcting, in any degree, the evils that result from the error of its construction, after the glass ceiling before mentioned, and which the House seemed unwilling to adopt, are an alteration in the position of the chair, and a different arrangement of the seats of the members.

The alterations I would suggest are, that the present entrance into the Hall be closed, and the chair erected directly in front of it; that an entrance be opened on each side of the chair, where the nearest windows now are; that the seats of the members be placed across the Hall, parallel with the diameter, and fronting the chair, with proper passages for the members, and rising one above another from the chair to the diameter. This arrangement will contribute to condense the sound of the voice, and render it audible in every part of the Hall. It will lessen the causes that break the voice and destroy its simplicity and uniformity; it will also lessen the number of reflecting surfaces that form the echo, and will accommodate the additional number of members to be added to the House the next Congress.

I prefer the amendment, said Mr. W., to the resolution, because, without limiting the inquiries of the committee, it directs their attention particularly to the only practicable alteration that has not been presented to the House, that, in my opinion, would have the desired effect of rendering the voice of any member audible in every part of the House.

The amendment was objected to by Mr. MERCER, as going to narrow the field of inquiry, and as unnecessary withal, because itself included within the scope of the general inquiry. Mr. M. dwelt much and strongly on the importance of the object proposed by his motion, on which he considered the character of this body materially to depend. Mr. WRIGHT also engaged in the debate. Mr. COCKE, to put an end to a debate which he considered out of place at this time, moved to lay the subject on the table. This motion was negatived. At length, the question was taken on Mr. Wood's amendment and decided in the negative; and the resolve, as moved by Mr. MERCER, was agreed to.

ARMY EXPENDITURES.

The SPEAKER laid before the House a report from the Secretary of War, submitting a comparative view of the expenses of the Army proper, and Military Academy, for the years 1818, 1819, 1820, and 1821, and estimates for 1822, arranged under the various heads of expenditure, according to the present and former organization of the Department of War, made in obedience to the resolution of the 7th ultimo, which was committed to the Committee of the whole House on the state of the Union.

The report is as follows:

DEPARTMENT OF WAR, *March 1, 1822.*

SIR: Pursuant to a resolution of the House of Representatives of the 7th ultimo, I have now the honor of submitting "a comparative view of the expenses of

H. OF R.

Army Expenditures.

MARCH, 1822.

the Army proper, and Military Academy, for the years 1818, 1819, 1820, and 1821, and estimates for 1822, arranged under the various heads of expenditures according to the present and former organization of the Department of War." The military disbursements for the years 1816 and 1817, as explained by the letter from the Second Auditor, accompanying this report, are so blended with the arrearages of prior years, pay and subsistence of the militia, and claims of certain States and individuals, arising out of the late war, as to preclude the possibility of ascertaining the expenses of the Army for those years, and so as to put it out of my power to embrace them in the comparative view called for; though it is believed, if it could be embraced in the comparison, the result would not vary materially from that founded on the expenditure of the year 1818, in which year a separation was made, for the first time, between the current expenses of the Army, and the arrearages growing out of the expenditures of the late war.

Table A, accompanying this report, is the statement of the Second Auditor, and exhibits a view of the expenditures of the Army proper, including the Military Academy, from the year 1818 to 1821, inclusive; from which it appears that the expenditures, after deducting for the increased expense on account of the Seminole war, in 1818, were, respectively, for those years, \$3,702,495 04, \$3,374,781 95, \$816,414 11, and \$2,180,093 53; adding to the expenditure of the last year the arrearages of the Quartermaster's department, and subtracting the expenditure incident to the reducing the Military Establishment in June last, the estimate for the expenditure of the year 1822, including the balances of such of the appropriations of the last year as are required for the service of this, amount to \$1,800,424 85.

Table B, is an abstract of the general returns of the Army, for the years 1818, 1819, 1820, and 1821, showing the number of officers and enlisted men, as reported by the last returns received at the Adjutant General's office, together with the academic staff and military school at West Point, to which is added the number of the Military Establishment, by the present organization, for the year 1822. From the exhibit in the table, it appears that the average strength of the Army, including officers and cadets, for the year 1818, was 8,199; for 1819, was 8,428; for 1820, 9,693; for 1821, 8,109; and that, from the organization of the present Military Establishment, if the rank and file are kept full, the strength, for 1822, will amount to 6,442.

It also appears, from the same table, that the commissioned officers were, in proportion to the cadets and rank and file of the Army, in service, for those years, thus:

In 1818, as	-	-	-	1 to 11.75.
In 1819, as	-	-	-	1 to 12.11.
In 1820, as	-	-	-	1 to 13.57.
In 1821, as	-	-	-	1 to 12.18.
In 1822, as	-	-	-	1 to 10.25.

Table C, exhibits the result of the comparative view of the expenditures of the Army for the years 1818, 1819, 1820, and 1821, and estimates of expenditures for 1822. To illustrate distinctly the operations of the present system, in controlling the disbursements of the Army, through the instrumentality of a proper organized staff, the items composing the expenditures of the Army have been classed under two divisions, viz:

First. Those which are fixed by law, and which

cannot be materially affected by administration; such as, pay to the officers and men, subsistence to the former, and the allowance to them for servants, forage, transportation for baggage, &c.

Secondly. Those items which are embraced under the general character of supplies for the Army, and which may be reduced by correct administration; such as, subsistence to soldiers, clothing, Quartermasters' and medical stores. As most of the articles embraced under the above denomination, are exposed to fluctuate in price, and a considerable reduction took place in the medical, subsistence, and clothing supplies, within the periods compared, proper allowances have been made on that account, amounting, in the price of provisions, from forty to thirty-nine and a half per centum, and, in that of clothing and medical stores, from seven to eight and a half per centum. The contracts made by the different departments, and the price currents for those years, in the principal cities, have been the guides in fixing on those allowances. To the Quartermaster's disbursements no additions have been made, as any reduction which may have taken place in the price of supplies furnished by that department, has been more than balanced by the increased expenditures to which it has been subject from the extension and multiplication of the frontier posts.

From table C, it appears that the expenditures of the Army, (additions being made as above stated, for the reduction in prices of stores and supplies in the years subsequent to 1818, so as to raise the prices of those years to the standard of those of that year,) would amount to—

In 1818	-	-	-	\$3,702,495 04
In 1819	-	-	-	3,663,735 16
In 1820	-	-	-	3,061,884 00
In 1821	-	-	-	2,327,552 13

And by estimates for 1822 - 1,929,179 91

From the above data and average strength of each year, conformably to an abstract of the general returns of the Army, it results that the average cost of the Army, for each individual, taking the aggregate of the officers, professors of the Military Academy, cadets, and enlisted men, in the service of the United States, was—

For the year 1818:

In expenditures, not materially affected by administration, on an average, each	-	\$151 93
Its expenditures which may be affected by administration, on an average, each	-	299 64
Total average cost for officers and enlisted men, &c., each	-	\$451 57

For the year 1819.

In expenditures of the first class, each	-	\$158 72
In expenditures of the second class, each	-	275 98
Total average cost, each	-	\$434 70

For the year 1820.

In expenditures of the first class, each	-	\$140 45
In expenditures of the second class, each	-	178 43
Total average cost, each	-	\$318 88

For the year 1821.

In expenditures of the first class, each	-	\$136 62
In expenditures of the second class, each	-	150 40
Total average cost, each	-	\$287 02

MARCH, 1822.

Committee on Public Buildings.

H. OF R.

For the year 1822.

Conformably to estimates, of the first class, each	\$155 30
Conformably to estimates, of the second class, each	144 16
Total average cost, each	\$299 46

From the above, it appears that there has been an actual annual reduction in the average expense of each officer and soldier in the service—

In the year 1819, of	\$16 87 each.
In the year 1820, of	135 69 each.
In the year 1821, of	164 55 each.
And by estimates for 1822, of	153 11 each.

The act of Congress for organizing the general staff, agreeably to its present formation, was not approved until the 14th of April, 1818; and the change in the system for controlling the disbursements of the Army, under the superintendence of the chiefs of each department located at Washington, could not be sufficiently matured before the close of the year 1819; which, with the additional expense to which the Quartermaster's department was unavoidably subjected in the year 1819, from occupying advanced military posts on the Missouri and Mississippi rivers, will account for the comparatively little reduction in the expenditure in that year.

The expenditure for the year 1822, compared with the aggregate of individuals composing the Military Establishment, though favorable as contrasted with the expenses of 1818, 1819, and 1820, is not so with 1821. This difference is accounted for from the present organization of the Military Establishment, the officers being in larger proportion to the rank and file than under the former organization. But, if we should suppose the proportion to be the same, the comparison, founded on the estimates for 1822, would be more favorable in its results than in the expenditures of the preceding year. From table C it further appears that the Army for the year 1818, being 8,199 strong, including general staff, professors of the Military Academy, cadets, and enlisted men, cost for that year \$3,702,495 04; and that for the same numerical force, at the rate of expenditures in 1818, would have cost—

For the year 1819	\$3,564,105 30
For the year 1820	2,589,900 12
For the year 1821	2,353,276 98
And on the estimates for 1822	2,455,272 51

After making an allowance for the difference in prices of articles of supplies, as above stated, the results in favor of the latter years are, respectively, \$138,389 74, \$1,112,594 92, \$1,349,218, and \$1,247,222 50.

Such are the results, as founded on the statement of the Second Auditor of the Treasury Department, but which, for the reasons which he has assigned in his report, may not be strictly correct, as the accounts of the expenditure of each year are not kept separately. It is, however, confidently believed, that any inaccuracy in the mode of ascertaining the amount of the expenditures of the several years, cannot, in any considerable degree, vary the result. This great reduction in the expenditure has been effected by the present organization, principally by the more minute control which, through it, has been given both to the disbursements of public money and the preservation of public property. Its beneficial effects have been no less

striking in the prompt rendition and settlement of the accounts of disbursing officers. All the accounts for supplies, and disbursements in the department of the commissary of subsistence, for the year ending the 1st June last, the period at which the contracts for supplying the army expired, are settled, except a few small ones, amounting, in the whole, to \$5,405 46, though there were seventy-one contracts formed, and ninety-one disbursing officers attached to this department during that year.

The settlements in the other subordinate branches of this department are not less prompt. It is believed that the system has attained nearly all the perfection of which it is susceptible, as by reference to the table marked C, it will be seen that those expenditures liable to be affected by administration, and which are principally on account of the soldiers, will be but little reduced in this year, when compared with those of last year, and it is not doubted but that if preserved, the system will hereafter prevent the accumulation of unsettled accounts, and of any considerable losses in the expenditure for the army. Taking every circumstance into consideration, the number and distance of the posts, the quantity and quality of the supplies, and the large proportion of officers and cadets, which, while it better fulfils the objects of a Peace Establishment, renders the army more expensive, when compared with the aggregate of individuals, including officers, cadets, and privates, it is believed that, at no period, has the expense of the Military Establishment been, in proportion to its size, so small as under its present organization.

Table marked D contains a comparative statement of the expense of supplying the army, from the 1st of June, 1816, till the 31st of May, 1817, under the former system, and the same under the present from the 1st of June, 1820, till the 31st of May 1821. The new system commenced its operation on the 1st of June, 1819, and, as some additional expenses were necessarily incurred in the first year, it was thought that the operation of the system would be more fairly tested by taking the subsequent year. The year from the 1st of June, 1816, was assumed, under the old system, in preference to subsequent years, under the belief that it presents the fairest test of the operation of the former system, the accounts of that year being more completely adjusted, and not involved in the increased expenditure on account of the Seminole war.

I have the honor to be, &c.,

J. C. CALHOUN.

HON. PHILIP P. BARBOUR,
Speaker House of Representatives U. S.

COMMITTEE ON PUBLIC BUILDINGS.

MR. MERCER moved that the House do, by unanimous consent, suspend so much of its order of the 10th of December last, as prescribes that the Committee on the Public Buildings shall consist of seven members.

And the question thereon being taken, it passed in the affirmative, *unanimously*.

MR. MERCER then moved that the said committee consist of twenty-four members, for the purpose of considering the resolution this day moved by him, and adopted by the House, instructing that committee "to inquire into the practicability of making such an alteration in the Hall of this House, as will fit it for the purposes of a deliberative assembly, and, if not, whether a suitable room

cannot be provided in the centre building of the Capitol," and that the said committee consist of twenty-four members for no other purpose, but that when said inquiry shall have been ended, the members thus added be discharged, and the committee reduced to the seven members of which it is now composed.

And, on the question to agree to this motion, it passed in the affirmative; and Messrs. EDDY, BARBER of Connecticut, MATTOCKS, McLANE, WRIGHT, GIST, GILMER, JOHNSTON of Louisiana, RANKIN, MOORE of Alabama, RHEA, METCALFE, CHAMBERS, COOK, HENDRICKS, and SCOTT, were added to the said Committee on the Public Buildings, in pursuance of, and for the purpose aforesaid.

BANKRUPT BILL.

The House then proceeded to the orders of the day; and, in pursuance thereof, resolved itself into a Committee of the Whole, on the bill to establish an uniform system of bankruptcy.

Mr. LOWNDES concluded the argument which he commenced when the House was last in Committee of the Whole on this subject, against the principles of the bill.

Mr. BALDWIN next spoke, and opposed at considerable length the motion to strike out the first section of the bill.

Mr. TUCKER, of Virginia, said, that he had, at the close of the last session of Congress, opposed the passage of a bill similar to the present, because he considered so precipitate a course of legislation equally unsuited to the dignity of that House and the importance of the subject. That he had since given to the subject his most deliberate consideration, and his mind had come to the conclusion that a bankrupt law was not suited to the circumstances of this country. He asked, therefore, the indulgence of the Committee to give a brief view of his reasons, especially as a bankrupt law, though vehemently opposed by the greater part of his constituents, would be very acceptable to a portion of them.

He would not deny that a bankrupt law might occasionally be of advantage to creditors, besides holding out the prospect of a discharge to a numerous class of debtors, whose situation was now hopeless; nor was he without sympathy for this class of sufferers. Many of them had been ruined by causes which they could neither control nor foresee; and although much the larger part of them perhaps owed their failure to their own imprudence, there was, even in their situation, connected as it was with that of their families, as much to pity as to blame. But on this, as most other great acts of legislation, we have a choice of ills presented to us, and we must consider whether, in aiming at a temporary advantage, we may not produce a permanent inconvenience; whether we shall not benefit a single class at the expense of the rest of the community; in short, whether the evils we create may not be greater than those we avoid. He sincerely believed this would be the case, and would disclose the grounds of his opinion, by comparing the supposed advan-

tages with the probable inconveniences of a bankrupt law: in which examination he should avoid, as much as possible, repeating what had been before urged, and should endeavor to imitate the fairness with which the bill had generally been supported by its advocates, particularly by the gentleman from Pennsylvania, (Mr. SERGEANT.)

Mr. TUCKER first examined the supposed advantage of a bankrupt law to creditors. He adverted to the practice, of late become so prevalent, among failing merchants, and others, of conveying their property in trust, for the purpose of securing some creditors to the exclusion of the rest, which was often an instrument of injustice, and sometimes of fraud. But he thought the mischief could not be prevented by a bankrupt law. Men, he said, will always feel a strong disposition to prefer some creditors to others; to favor their endorers and securities, and their particular friends; to favor those who had favored them. And they commonly have ample means of effecting their purpose. All transfers of property made before an act of bankruptcy are valid, and an end must be put to all commercial intercourse, if that were not the case. So long, then, as the bankrupt has property or credit he will put off the act of bankruptcy, until he has provided for his favored creditors. He will do so by purchasing the property of others on a credit; by forced sales of his own property; or by borrowing money or names, in which purpose those he means to favor will readily co-operate with him. By these means, the failing merchant would seldom be declared bankrupt, until he was ready for the occasion. Mr. T. remarked, that this was not mere speculation. He thought it was proved to be the ordinary course of things, by the small dividends that have been made of bankrupts' estates, in England as well as this country. There, notwithstanding the pains taken by the Legislature to perfect the system, and the guards and penalties of their law, the average dividends are stated to be but about sixpence in the pound. In the cases which occurred under the former bankrupt law, in New York and Philadelphia, he had found the dividends, on a hasty estimate, not to average more than six or seven per cent., and he contended that these dividends could not be so small by the casualties of trade, (no course of misfortune being likely to annihilate ninety-five per cent. of the property in a merchant's possession,) but by the same preference among creditors that is now complained of. It is because some get twenty shillings in the pound that others get but sixpence.

Mr. T. said, that even if all preferences among creditors could be prevented, he was not sure whether it would be wise and right to do so. There is, he said, in every man's bosom, that which distinguishes between the creditor who has lent him money at legal interest, or no interest, and him who has oppressed him with exorbitant usury; between a mere security or endorser, and a creditor in the ordinary course of trade; between him, in short, who had become a creditor for the bankrupt's advantage, and him who had merely been seeking his own. Honor, and conscience, and the

MARCH, 1822.

The Bankrupt Bill.

H. OF R.

common feelings of mankind, recognised this distinction, and in many cases we should do injustice by interfering with it. The laws of the State of which he was a Representative did actually discriminate between ordinary debts, and those due in a fiduciary character, as from a guardian to a ward, an attorney to his client. Mr. T. here adverted to a misapprehension of a gentleman from New York, (Mr. COLDEN,) as to the objection of his colleague, (Mr. SMYTH,) to the bill for the want of this discrimination; and he contended that, as to preferences among creditors, a bankrupt law would commonly be inefficient; and where it did operate, it would often be unjust, and contrary to the common feelings and sentiments of mankind.

But the advocates of the bill insist that the whole commercial part of the community ask for a system of bankruptcy. He begged leave to dispute the fact. Both the support and the opposition which the bill had received on this floor, seemed to show that, with reference to this bill, there was not much difference between the mercantile and the agricultural classes. Thus it had been supported by one member from Kentucky, (Mr. MONTGOMERY,) and another from North Carolina, (Mr. SAWYER,) and it had been opposed by one member from Pennsylvania, (Mr. PHILLIPS,) and another from Vermont, (Mr. MALLARY.) Petitions, too, had been presented against it from the city of New York, from Boston, from Troy, and the commercial town (Lynchburg) in which he lived. He admitted that the voice of the greater part of the mercantile class seemed to be in favor of a bankrupt system, but this was less the case than it seemed. He compared the situation of those who wished to be discharged from their debts, to persons preferring special claims against the Government, who are loud and clamorous in their petitions to Congress, while the rest of the community, feeling not so immediate an interest, remain silent, and rely on the wisdom and justice of their representatives. The number of petitioners in favor of the law, furnished then no evidence of the sentiments of the nation. He then adverted to the encouragement which a bankrupt system gives to trade. He admitted that it cherished and increased commercial spirit. It says to the merchant, you may boldly engage in any enterprise, you may adventure your own capital, and all that you can get hold of; if you succeed you may build a palace, ride in a coach, and become one of the nabobs of the land. But, if you fail, you may securely look forward to a discharge, and begin your fortunes again. But is this, said Mr. T., an advantage? He thought not. The commercial speculating spirit is already too strong in this country, and is responsible for much of the late embarrassments of the country.

He said he should not take up any time to show that commerce had flourished as much, or more, in this country than in any other, as that had been very fully and satisfactorily done by a gentleman from South Carolina, (Mr. MITCHELL,) but would merely advert to those peculiarities in our situa-

tion, from which that consequence must necessarily result. These peculiarities were the cheapness and abundance of our land, which yields so large a surplus beyond our own wants. Our dependence in turn on foreign countries for many articles of foreign manufacture, and, above all, the equality of our political condition, which, excluding all other distinctions, gives greater force to that of wealth; and for the same reason that Carthage was more commercial than Rome, or Athens than Sparta, or England than France, this nation, so long as it retains its freedom, and its equal laws, will be distinguished for its commerce.

He said that the friends of the bill had relied upon the extraordinary hazards to which persons in trade were exposed. But he insisted that this argument applied only to a very small part of the persons provided for by the bill—that is, merchants engaged in foreign commerce. Inland merchants and traders of every description were as little liable to failure as the agricultural class; indeed he thought their business, if they were prudent, was less precarious, and afforded fewer instances of insolvency. As to our merchants engaged in foreign trade, if, as he admitted, they risked greater losses, they were compensated by the chance of greater gains. And the prosperity and wealth in those towns which had most engaged in foreign commerce, confirmed the fact. He particularly mentioned Salem, Boston, New York, and Philadelphia. The richest merchant in the United States, and perhaps in the world, Mr. Stephen Girard, was one who had made his fortune in foreign commerce. He said that when the bankrupt law was first introduced into England, the merchant was more exposed to hazard than at present. Then marine insurance, by which the loss which would ruin an individual is divided among many, was not a common practice.

He said that but a small portion of our bankrupts had failed by the mere casualties of trade. There were three sources of failure which seem to give no very strong claims to legislative favor, and this will be found to comprehend nine-tenths of the insolvent merchants of the United States. These were, over-trading, extravagance in living, and the purchase of town lots and real estates, all of which had grown out of the facility with which they had obtained credit at the banks. Their errors, so fatal to themselves, and so injurious to the country, have received a severe, but salutary corrective in the difficulties of the times; but the passage of this law would destroy its efficacy; the spirit of speculation which had pervaded all classes of society, has received a wholesome check, but this law would again call it into action.

Mr. T. then adverted to the examples of other nations. He admitted it was right to profit by their example, but for one look abroad we should look twice at home. He attempted to show that there were reasons, in favor of a bankrupt law, in most of the countries of Europe, that did not apply to the United States, and particularly that in England, whose situation was most similar to our

H. OF R.

The Bankrupt Bill.

MARCH, 1822.

own, every thing was subservient to the supposed interests of commerce. That, with a view to these interests, they had pursued a policy, or adopted regulations, which we had not chosen to imitate; that the slave trade had been for many years avowedly justified, on account of its commercial advantages. From the same consideration, forgery was also punished there with death. But, said Mr. T., putting aside these points of difference between the two countries, much of the supposed advantage, of a bankrupt law in England, may be fairly ascribed to the same love of regulation, which has given rise to the system of bounties, and prohibitions, and commercial monopoly, which the soundest politicians of the present day unite in condemning.

Having thus answered the arguments which were most relied on in favor of the bill, Mr. T. said he would state the considerations which would induce him to vote against it, or perhaps any other bill that could be framed. His first objection was that it would encourage fraud. It will be admitted, Mr. T. said, that when a merchant finds himself about to fail, his first object will be to obtain his discharge by securing to himself two-thirds of his creditors. To effect this favorite purpose he has ample means in his power. He is tempted, in the first place, to create fictitious debts—and if he is so disposed you cannot prevent him without subverting all the rules of evidence. Mr. T. illustrated this by some examples. At other times, he said, the bankrupt would forbear to contest claims which he might easily repel, for fear of losing the creditor's signature. And, in this way a man must be a bungler indeed, as all experience showed, if he failed to obtain his discharge, however unwilling a majority of his real creditors might be to grant it to him. Now these were frauds of a more positive and odious character than those which are now complained of. The evil now felt consists mostly of a preference of some creditors over others, and the act is open and public. But under the bankrupt system, while the same unjust preference is likely to exist, you add to the injustice, collusion, and fraud. Besides, according to the practice of proving debts, the creditor's own oath is admitted, and every man, familiar with courts of justice, knows how few are to be trusted to swear where their interests are involved, more especially where he who can best detect error, has strong interest in concealing it. It is clear that, under these circumstances, the system must be fruitful of perjury as well as fraud.

His next objection was to the waste and extravagance in which the failing merchant was apt to indulge, and he stated a case, on the authority of Sir Samuel Romilly, of a man who finding himself on the verge of bankruptcy, squandered the sum of £17,000 in a short time, in riot and debauchery.

He also thought it would revive that undue propensity to speculation and traffic, which had been so pernicious, and to which the late change in the times had afforded so seasonable a check.

Mr. T. said, that he feared that the proposed

law would tend to produce some collision between the State and the Federal courts. After a trader had been declared a bankrupt by the Federal courts, questions respecting the validity of his conveyances and assignments, would often incidentally arise in the State courts, and might be differently decided by the different jurisdictions. Sometimes such conflicting decisions are unavoidable in our complex system of government; but no prudent legislator, no good man, would wish to see the occasions multiplied. It is, indeed, he said, a strong objection to any bankrupt law, that it exhibits the Federal judiciary in a new aspect. The Constitution has wisely given to the Federal courts jurisdiction only in cases between citizens of different States; but all cases between citizens of the same State are decided by the State courts according to the State laws. Here, he said, in a very extensive class of concerns of a merely municipal nature, you are incidentally about to give the Federal courts jurisdiction, and to break in upon that excellent part of our system which leaves such concerns to the exclusive management of each separate State. Such a policy, Mr. T. said, was not only repugnant to the harmony of our Government, but would be extremely inconvenient to the parties concerned. In most of the States there is but one district court, and in the largest but two. Every person, then, who is interested in a question of bankruptcy, is liable to be carried to this court; and sometimes he may be required to go several hundred miles to settle a controversy, which could and would be just as well settled by the court in his county if this law had never passed. This objection applied with peculiar force to the penalties contained in the bill, which could be enforced only in the Federal courts, since, in such cases, the State courts had refused to entertain jurisdiction.

Mr. T. said that his last objection was, that it enabled a man to absolve himself from his just and solemn contracts. He disclaimed any intention of founding this objection on the Constitution of the United States for two reasons: one was, that this view of the subject had been presented by his colleagues with far greater ability than he could pretend to; but another was, that, in expounding the Constitution, he was unwilling to adopt any construction which required refined and subtle reasoning for its support. That instrument was made in the name of the people, and, on all great questions, it must be remembered that the people are its expounders in the last resort, and that they will not use a technical or artificial course of reasoning, but will adopt that meaning which is most conformable to good, plain, common sense; and he reminded the gentleman from Pennsylvania, (Mr. SERGEANT,) that he had insisted on the same rule of construction on the Missouri question.

Admitting then, by this rule, said Mr. T., that this bill does not violate the Constitution of the United States, still the objection, that it retrospectively gives its sanction to the abrogation of private contracts, remains in full force upon all the great principles of public policy.

The obligation of every man, to pay his debts

MARCH, 1822.

The Bankrupt Bill.

H. OF R.

and comply with his fair engagements, is so conformable to all our notions of sound morality, and seems so to enter into the very elements of justice, that, as every one will agree, the political necessity must be very urgent to justify a Legislature in weakening its force. There were cases in which it had been done, but they all differed from this. Mr. T. here adverted to the law against gaming and usurious contracts and acts of limitations. In all of these the injured party was supposed to have incurred some blame of negligence if of nothing else. But here his rights may be taken away without the shadow of blame. Confining, then, the law to a prospective operation, it seems to go further than any other with which our jurisprudence is familiar.

But the objection is infinitely stronger when it is applied, not merely to the future voluntary contracts of individuals, but to those which are, at this very time, in existence, on which this bill is confessedly framed to operate. He would not dwell on the unreasonableness, the injustice, the tyranny of retrospective laws, but merely refer the Committee to the able argument of his colleague, (the Speaker,) on this subject. He would only remark that our Legislatures, when they interfere with private contracts, as in the act of limitations, always make a reservation of existing rights, and he believed no case could be adduced in which they failed to do so. It is true the gentleman from South Carolina, (Mr. LOWNDES,) who had just sat down, and who had argued so ably on the competency of Congress to pass this bill, had assimilated the case to that of a nation, making a formal surrender of the claims which its citizens had against another nation. But, Mr. T. said, he did not think the cases parallel. A nation is bound to protect the rights of its citizens in return for their allegiance. But it is not bound to go to war, at all events, for that may affect the rights of the rest of the community, and at last fail of redress, and it may have no other means of enforcing its claims against another nation. It is bound to assert the violated right in the way it shall deem best; and when it has done so, though it failed of success, it has discharged its duty; and a surrender of its claim is no more than a declaration that it does not deem it expedient to go to war to enforce its rights. Here, however, we are legislating for our own citizens, and the subject is completely under our control. That is a mere act of forbearance, and perhaps necessity, while this is of a voluntary and positive character. Mr. T. said he took it for granted, that, as the gentleman from South Carolina had not cited a stronger case, no stronger case could be found. He asked, then, if such a case was made out as would justify this nation in departing from principles that have been hitherto so deservedly respected? He thought not. He believed (and he had endeavored to consider the subject fairly and practically) that a bankrupt law, in preventing some frauds, would give occasion to others of a worse character and more pernicious example—that it would extend relief to but a small part of the insolvents of the United States, and this, not the most meritorious

part; that it would afford such relief by enabling the merchant to commute some valuable personal rights for the privilege of being dishonest, and by the violation of some of our best principles of public policy. He therefore should vote for striking out the first section.

Mr. HILL, of Maine, spoke as follows:

Mr. Chairman: I know the time of the House is precious, and I do not rise to make even a motion, without doing some degree of violence to my own feelings; nor should I, on the present occasion, occupy a moment of your attention, were not some of my constituents interested in the issue of the present debate, and did I not feel it an indispensable duty to call the attention of the Committee to a few facts.

Sir, there are two objections made to the passage of this bill—1st, because it is unconstitutional, as gentlemen say; and, 2d, because it is inexpedient.

In reply to the first objection, I beg leave to advert to the Constitution of the United States, the *primum mobile* of all our laws. The Congress shall have power "to establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States."

Sir, if we have a right to make an uniform rule of naturalization, we have an equal right to make an uniform law on bankruptcy. One is coupled with the other; and it is a remarkable fact, that all the powers delegated to Congress are now regulated by standing laws, with the exception of the subject under consideration. If I am asked, what were the characteristics of a bankrupt law, contemplated in the Constitution? I answer, precisely such as then existed in the commercial nations of Europe, particularly in England, from whence we derived our system of jurisprudence; namely, that the failing merchant should make a full disclosure of all his property; that the same should be divided among all his creditors; and then, with the consent of more than half of them, he should have a final discharge.

In opposition to the latter principle, some of the opposers of the bill have gone into a metaphysical course of reasoning, the conclusion of which goes to invert the order given in the "horn-book" of the lawyers, (as an honorable gentleman has called Blackstone's Commentaries,) by considering the rights of things paramount to the rights of persons; so that a man may be held in duress all his lifetime for a trifling sum, rather than moral right, as they say, should not be obtained.

In reply to this, I cannot do better than to quote a paragraph from the late message of Governor Robertson to the Legislature of Louisiana, wherein he denounces imprisonment for debt in language more eloquent and pointed than I can employ:

"How it is," says the Governor "this remnant of barbarism has been suffered to survive, whilst the brood of iniquities with which it is connected have been annihilated, it is difficult to comprehend. But it is unjust as it is impolitic. Imprisonment is no more to be found in the bond than blood; and, although Shylock was denied his pound of flesh, our laws meanly step in—give to a judgment for property a value paramount

to human liberty—deprive society of what belongs to it, the labor of its citizens—pander to the vengeance of petty tyrants, who fill society with widows and orphans by the living death they inflict—on whom? on those, certainly, not as fortunate, nor probably as knavish, as themselves. Governments, to make mankind as happy, should not only refrain from harsh and cruel acts, but should prevent individuals from indulging their bad and detestable passions.”

Sir, the laws were made for man, and not man for the laws. The Jews, under a theocracy, had their release every seventh year, and the jubilee every fiftieth. These regulations contained more of the levelling principle, and affected more the obligation of contracts, than any thing contained in a bankrupt law. And is any gentleman here ready to say, that those regulations were incompatible with moral obligation?

As to the expediency of passing this bill, I know it is but a choice of evils. For six and twenty years, that I have been a member of a legislature, I have ever been cautious when considering a question, of this kind, under the name of an insolvent law, apprehending that no act could be passed in this country so sanguinary in its character as to insure its just operation.

The honorable Speaker, who has so ingeniously and eloquently opposed the passage of this bill, expressed much solicitude that the subject should now have a fair and full discussion, so as to be finally settled one way or the other. If the honorable Speaker supposes that, by refusing the passage of a law now, it will impart to the question its final *quietus*, I cannot but suppose he is greatly mistaken. This great commercial people will never be contented until some general rule is established, whereby an interminable imprisonment may be prevented by a man's surrendering all his property to his creditors, and the invidious operation of the local State laws shall cease—some of which now make all the real and personal estate of a man amenable for his debts in one part of the Union, with a trifling exception, when, in other parts thereof, a man may be worth millions in real estate, and it cannot be touched.

Sir, there are other reasons why this Government should, by passing a bankrupt law, give relief to thousands in the United States, who are now useless to society, and wretched themselves, without fault of their own.

I am from a district which now contains nearly fifty thousand persons, inhabiting the seacoast from the Kennebec to the Penobscot rivers, of a character considerably commercial; they own from seventy to eighty thousand tons of shipping, which is about half the quantity owned in the State, and Maine is the third, as to tonnage, in the Union. Therefore, by giving a history of this section, the same facts and inferences will apply to other parts of the United States.

From the peace of 1783 to the year 1806-7, the commercial prosperity was rapid beyond example, and a large portion of our ships were employed in the carrying trade, by transporting timber and other productions of the country to the dominions

of Great Britain. But, near to the close of that period, the English Government imposed such heavy duties on our timber, and favored so much the introduction of that article from the north of Europe, that with us it amounted to a prohibition, and at this time a large proportion of the moneyed capital was invested in shipping; immediately succeeded the embargo; then followed the system of non-intercourse, and finally war. All these were acts of the Government, and perhaps necessary, but over which the merchant had no control; and, to crown the whole, a general pacification throughout the Christian world ensued, (in name at least) so that each nation took a share in the commerce of the world, and therefore but a small part of those ships that escaped capture and condemnation from orders and decrees, and remained sound at the end of the war, could be employed at all, and the residue were in a manner lost.

Thus an honest, industrious, enterprising merchant, who, in 1806, was worth one or two hundred thousand dollars, found himself, at the peace of 1815, not only destitute of property, but in debt, and this, too, not by acts of his own merely, but those necessarily growing out of the state of the times. The same results have happened to a great portion of the merchants in every part of the nation.

Shall we not, therefore, under these circumstances, do something to alleviate this suffering part of our community—especially when the highest judicial tribunal of the nation has decided that the individual States cannot grant the relief which alone is in the power of Congress to do.

As to the details of the bill I have said nothing. I cannot subscribe to all their provisions; they can be modified: but I am utterly opposed to striking out the first section.

When Mr. H. sat down the Committee rose and had leave to sit again.

WEDNESDAY, March 6.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill for the relief of Trapman, Jahucke & Co.; which was read twice, and committed to a Committee of the whole House.

Mr. SMITH, of Maryland, from the same committee, to which was referred the bill from the Senate entitled “An act for the relief of the President and Directors of the Planter's Bank of New Orleans,” reported the same without amendment, and it was committed to a Committee of the Whole to-morrow.

Mr. CANNON submitted the following resolution, viz:

Resolved, That the Secretary of War be directed to state to this House the names and grade of the officers now in the Army of the United States, who hold brevet commissions, distinguishing those brevetted for gallant conduct in battle, from those brevetted for other causes; stating the cause in each.

The resolution was ordered to lie on the table one day.

On motion of Mr. MOORE, of Alabama, the

MARCH, 1822.

The Bankrupt Bill.

H. OF R.

Committee on the Public Lands were instructed to inquire into the expediency of allowing to Joseph Elliott a fee simple estate in the right he holds in six hundred and forty acres of land, by treaty with the Cherokee Indians.

Ordered, That the report of the Secretary of the Treasury, of the 22d ultimo in relation to the Cumberland road, and to the claims of Colonel David Shepherd, be referred to the Committee on Roads and Canals.

The House took up and proceeded to consider the reports of the Committee of Claims, on the cases of William G. and Benjamin Roberts, Frederick Halsey, and Septa Fillmore: whereupon it was ordered that the former be committed to the Committee of the whole House, to which is committed the report of the Committee of Claims on the petition of Allen R. Moore; and that the two latter be, respectively, committed to a Committee of the whole House to-morrow.

On motion of Mr. STERLING, of New York, the Committee on the Public Lands were instructed to inquire into the expediency of making immediate provision for the survey of the public lands in the territories of East and West Florida, and for the sale of such portion of the same as may be consistent with good policy.

Mr. ABBOT moved that the House do come to the following resolution:

Resolved, That a select committee be appointed with instructions to inquire into the claims of certain detachments of militia of Georgia, for services performed in the years 1792, 1793, and 1794, by order of the Executive of the State, under a discretionary power, vested in him by the Department of War.

Mr. McCoy moved to refer the subject to the Committee of Claims, being a standing committee. This motion was opposed by Messrs. ABBOT, REID, and GILMER, and also by Mr. WILLIAMS, chairman of that committee, on the ground that the case was an important one, involving much labor in the examination of it, and that the Committee of Claims had already business enough on its hands. The motion was supported by Messrs. McCoy and LITTLE; but was negatived. Mr. SMITH, of Maryland, moved to amend Mr. A.'s resolution so as to refer the subject, as it involved questions in some degree of a military nature, to the Military Committee, which motion was agreed to; and, thus amended, the resolve was agreed to.

Mr. NELSON, of Virginia, gave notice that he should, to-morrow, move for the consideration of the report of the select committee, proposing certain amendments to the rules and orders of the House.

CASE OF JUDGE TAIT.

The SPEAKER laid before the House a letter addressed to him, by Edwin Lewis, of Alabama, complaining of alleged official misconduct on the part of Charles Tait, district judge of the United States for the district of Alabama.

The letter was read.

Mr. TAYLOR moved to refer the letter, with the documents enclosed in it, to the Judiciary Committee.

Mr. WILLIAMS, of North Carolina, objected to the reference, as giving too much importance to the complaints of a person, who had heretofore laid before the House charges against Judge Toulmin, and failed to substantiate them. He subsequently withdrew his opposition, and acceded to the reference.

Mr. MOORE, of Alabama, said he had prepared a resolve on the subject, which he supposed would meet the views of the gentleman from North Carolina, viz: That the Committee on the Judiciary be instructed to inquire into the official conduct of Judge Tait, &c.

Mr. WILLIAMS said that such a resolution would give a very different aspect from that of a mere reference of the papers to the Judiciary Committee, and he was, therefore, opposed to it. Let the papers be sent, as now moved, said Mr. W., to the Judiciary Committee, and they will come, I have no doubt, to a very correct conclusion on the subject.

Mr. TRIMBLE suggested that it would not look well to be more anxious to inquire into cases of controversy between citizens and judges than between generals and judges; and thought General Jackson's case had better be referred along with Mr. Lewis's to the same committee.

The question of a reference to the Judiciary Committee, of the papers presented by the Speaker, was then agreed to without opposition.

BANKRUPT BILL.

The House then proceeded to the orders of the day; and, in pursuance thereof, resolved itself into a Committee of the Whole on the bill to establish a uniform system of bankruptcy.

Mr. WRIGHT, of Maryland, addressed the Chair as follows:

Mr. Chairman, after so much time has been spent in the discussion of the merits of this bill, upon the proposition to strike out the first section, on which its opponents have been so fully and so patiently heard, I confidently hope that I also shall meet the like indulgence, while I present my views of the subject; which will be in favor of the passage of the bill. And here permit me to remark, that this bill is brought before us under the most auspicious circumstances. At the last session it passed the Senate, and was sent to this House at too late a period to be acted on, and, by a vote, was placed in a state of preservation, to be brought on at this session, and has been, at an early day, reported to this House by the chairman of the Judiciary Committee, to whom it was referred. The regard we ought to feel for a co-ordinate branch of the National Legislature, in whose wisdom and patriotism the nation has reposed a just share of her confidence, entitle the proceedings of that body to great respect. The conduct also of this House in preserving this bill in a state to be brought to the early consideration of this Congress, will, I hope, induce this House, composed of so many new members, to receive and consider it with a friendly aspect. I will ask the House to go back with me to the year 1800, when a similar bill passed into a law, and to the year

H. OF R.

The Bankrupt Bill.

MARCH, 1822.

1803, when that bill was repealed. I then had the honor of a seat in the Senate, to whose proceedings I beg leave to refer, to show my own consistency, and the sense of the Senate, at that time, where the vote for its repeal stands 17 to 12. I need hardly remark to this House the high state of party that prevailed, both at the time of the passage and repeal of that law. It was unfortunately carried to such an excess that there was really a systematic opposition, by both parties, to the conduct of each other; and it will be seen that that bill passed under the Administration of Mr. Adams, when federalism was the order of the day, and was repealed under the Administration of Mr. Jefferson, when it was, as it were, the order of the day to undo all that had been done in the preceding Administration, as having been done amiss, there having been, perhaps, too much grounds for that impression.

Having, by this short but correct history, given you a perfect view of the bankrupt system, as to its introduction and repeal, as well as the introduction of the bill before the House, I shall, with all the despatch the nature and importance of the subject will admit of, proceed to present my views of it. In doing this, I am necessarily taken back to the proceedings of the Old Congress, when acting under the Articles of Confederation adopted by the States at the commencement of our glorious Revolution; and to show you that, by those articles, their power to raise taxes and revenue was limited to the power of making requisitions on the several States for such supplies as they wanted, which, during the pressure of the war, were promptly supplied, or, at least, to the utmost of their power. But, after the peace, and when the payment of our foreign loans claimed the attention of Congress, who, ever mindful of the honorable engagements they had made with foreign Powers, and to preserve the faith of the nation with those Powers by their punctuality in their payments, were correctly impelled to apply to the States, within whose limits were ports of entry, for their assent to lay duties on imported articles; and, on the 18th April, 1783, for that purpose it was "resolved by nine States that it be recommended to the several States, as indispensably necessary to the restoration of public credit, and to the punctual and honorable discharge of the public debts, to invest the United States, in Congress assembled, with a power to levy, for the use of the United States, the following duties upon goods imported into the said States from any foreign port, island or plantation, to wit:

Upon all rum of Jamaica	prf. per gal.	4.90 of a dol.
other spirituous liquors	- - -	3.90
Maderia wine	- - -	12.90
common Bohea tea, per lb.	- - -	6.90
pepper per lb.	- - -	3.90
brown sugar per lb.	- - -	2.90
loaf sugar per lb.	- - -	2.90
all other sugars	- - -	1.90
molasses per gal.	- - -	2.90
cocoa and coffee per lb.	- - -	1.90

and, upon all other goods, a duty of five per cent. ad valorem, at the time and place of importation."

Notwithstanding the powerful inducements to the general adoption of the measure thus recommended to the commercial States, who were, individually, so devoted to their own interests, that those of them who passed laws investing Congress with this power, limited its inception by the adoption of the same laws, by the other commercial States, or, perhaps, to speak more correctly, those States who had within their limits ports of entry, and thus the requisition proved abortive. However, on the 11th August, 1786, more than three years after said requisition, Congress, feeling in a progressive degree the necessity of means to meet their engagements with foreign Powers, as those Powers became more pressing, did pass the following resolution, to wit: "*Resolved*, That application be made immediately to the Legislature of Pennsylvania, by a committee to attend and confer with the Legislature, to explain the embarrassed state of the public finances, and to recommend to the said State to repeal the clause in her act granting the impost, which suspends its operation till the other States shall have granted the supplementary funds, so as to enable, on her part, the United States, in Congress assembled, to carry said system into effect as soon as possible;" and on the same day Congress further "*Resolved*, That it be earnestly recommended to the Executive of the State of New York immediately to convene the Legislature of that State to take into consideration the recommendation of the 18th April, 1783, for the purpose of granting the system of impost to the United States, in conformity to the acts and grants of other States, and, on her part, to enable the United States, in Congress assembled, to carry the same into immediate effect?" Yet the States could not be brought to act, upon this subject, so as to vest Congress with the power to lay and collect imposts, in the ports of the respective commercial States, and were, on the 21st of February, 1787, impressed with the necessity of calling a convention, under the authority vested in them by the articles of confederation, which they did as follows:

"Whereas, there is a provision in the articles of the Confederation for making alterations therein by the assent of Congress and of the Legislatures of the several States, and whereas experience has evinced that there are defects in the present Confederation; for remedy whereof:

"*Resolved*, That, in the opinion of Congress, it is expedient that, on the second Monday of May next, a convention of delegates, who shall have been appointed by the several States, be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several Legislatures such alterations and provisions therein as shall, when agreed to in Congress, and confirmed by the States, render the Federal Constitution adequate to the exigencies of the Government and the preservation of the Union."

Thus, sir, I have shown you the causes that led our Revolutionary fathers, of glorious memory, to the adoption of the Constitution, under which we are convened, and by which we are bound to act, and that, too, under the sacred ties of our holy

MARCH, 1822.

The Bankrupt Bill.

H. OF R.

religion. In doing which, I have shown that the Constitution was the legitimate offspring of Commerce, proceeding from the liberality of the commercial States, in granting, in that instrument, that which had been long withheld, and without which our Union could not have been sustained. By this hallowed compact, which may correctly be called the new covenant, and which has been consecrated by the sign manual of our Washington, who has been justly called the political savior of his country, it will distinctly appear that, among the articles, the right to establish a bankrupt law, uniform throughout the United States, is secured, which are now called on to pass by the petition of thousands in those commercial States, who have just now ceded to the United States the important right of laying and collecting imports and tonnage within their respective ports, in consideration, among other things, of their protecting and relieving the unfortunate merchant by a uniform system of bankruptcy, which this bill is intended to effect, which I have no doubt it will do, and which, sir, I shall advocate with an amendment, "That all persons discharged by a State insolvent law, by a faithful compliance with the conditions of that law, shall be as fully discharged as if discharged under a bankrupt law;"—an amendment, made necessary by a late, and, I think, an erroneous decision of the Supreme Court of the United States, which I shall hereafter feel it my duty to examine. Sir, the great number of petitioners for this law, and the impossibility of their relief but by a bankrupt law, which the United States alone have the power to pass, as it must be uniform throughout the United States, their irremediable distress without, will, I trust, enlist the sympathies of every member of this House; and the fact that is alleged, that there are fifty thousand bankrupts now languishing in distress for want of that relief this bill will afford them, will induce this House to pass it, under the fair construction of that instrument, as a measure of justice and Constitutional right. Sir, every other power delegated to Congress has been executed, whenever the cause existed in which it was intended to be executed, and I can never conceive that any honorable member, who will give fair play to his understanding, can doubt, that, when there are fifty thousand bankrupts within the United States, the framers of the Constitution did not intend there should be a bankrupt system for their relief, especially, sir, when they review the causes that induced its adoption. Nor could I doubt the disposition of this House to extend to every class of its citizens every benefit intended by the framers of the Constitution to be secured to them and to be enjoyed by them.

It has been said, by honorable members, that the language of the Constitution has no binding force in it, although it says "Congress shall have power to establish uniform laws on the subject of bankruptcies, throughout the United States." I would humbly ask, if it could have been the intention of that august body to have delegated powers to Congress, without intending that they should be executed, whenever the causes existed which induced their delegation; and whether, in the

event of there being fifty thousand bankrupts in the United States, it could be doubted that it was such as ought to produce a bankrupt law? Whatsoever may be the aversion of members to this system, under the refined notion of its violating the faith of contracts, as intended by the same instrument to be guarded against by the States, in the exercise of their reserved rights, I think, by a fair examination of the great charter of our rights and liberties, they will be satisfied that this right to establish bankrupt laws, uniform throughout the United States, is granted by positive *expression* to the Congress of the United States, and can never be construed away or impaired by implication, drawn from that clause of the Constitution that declares "that no State shall emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any ex post facto law, or law impairing the obligation of contracts." Sir, the grant of this power to establish uniform laws on the subject of bankruptcies throughout the United States is to be found among the general grants of powers to Congress, all of which have been exercised, and this power also, in eighteen hundred, almost contemporaneously with the adoption of the Constitution, and by many of those who had a principal share in its formation. This power is granted by the States to Congress without reservation, and by the same form of expression that the other powers are delegated, and have been exercised without the suggestion of a doubt of the power in Congress to pass it. But now, sir, the power is doubted by some, and to the extent contemplated by the bill; to discharge the bankrupt's acquisitions after his discharge from the payment of his debts, is denied by many, and that upon the principle that the States are forbid to pass any law impairing the obligation of contracts, and that the moral obligation, thus constitutionally imposed on the several States, must virtually bind the United States, although there is no expression in the Constitution thus limiting the power of Congress. Sir, the language used in the Constitution relative to bankruptcies, is purely technical, and meant something defined and understood, or the convention would themselves have defined it. They of course meant the bankrupt system of Great Britain, the system they best understood, and from whose laws and regulations the jurisprudence of every State is drawn; nor are we left to doubt it, when, in eighteen hundred, the bankrupt law, then passed, was copied from the British bankrupt law; neither can there be a doubt that it was intended by that convention to discharge the bankrupt and his future acquisitions from payment of his old debts; not only because by that law they were discharged, but because by the bankrupt laws, not only of Great Britain, but the other commercial States of Europe with whom we had commercial connexions, the same provision was incorporated, and because bankrupt laws must be international in their operation and effect, and it can never be supposed that the convention could have been so anti-national as to have contemplated a bankrupt system in which *our merchants* should not have been as fully dis-

H. OF R.

The Bankrupt Bill.

MARCH, 1822.

charged, as to their after acquisitions, by their bankrupt law, as the *European merchants*, bankrupts, should be discharged by their bankrupt laws. Reason, and the soundest principles, of reciprocal justice, protest against such an unnatural intention. The importance of this subject will induce me to refer you to some of those rules of construction of statutes, that have been laid down by British jurists, to fix and define their meaning.

"Such construction ought to be put upon a statute, as may best answer the intention the makers had in view."—*Bac. Stat.* 384.

"Great regard ought, in construing a statute, to be paid to the opinion the sages of the law, who lived at the time it was made, put on it, as the best judges of the intention of the makers. It is a maxim, '*Contemporanea expositio est fortissime in lege.*'"—*Bac. Stat.* 384, 2 *Inst.* II. 136, 181.

I ask, can any man doubt the intention of the framers of the Constitution, when they see a number of the principal gentlemen who framed the Constitution, in eighteen hundred, giving it their own construction in the bankrupt bill they then passed, or feel any difficulty in applying the rules cited for the construction of statutes to the case?

"When a statute directs the doing of a thing for the sake of justice, the word *may* means the same as the word *shall*. The statute of 23 H. 6. says, the sheriff *may* take bail, but the construction has been that he *shall* do it."—*Bac. Stat.* 379.

It will be also recollected, that the bankrupt law of eighteen hundred had the approbation of the Legislative, the Executive, and Judicial branches of the Government, so that the judgment of every department hath decided every point now contested by its opponents.

Hence, I think I may safely conclude that its constitutionality is fairly fixed, and that with the clause discharging the future acquisitions of the bankrupt from the payment of his old debts.

Having thus fixed its constitutionality, I think I may fairly infer, from the facts in the case, established, incontrovertibly, that its expediency is unquestionable, and that it is necessary to the justice of the nation, that the bill shall pass.

The unfortunate bankrupts, however, have been assailed on every side, as unworthy the attention of Government; that their conduct is marked by such fraudulent practice, that they are rather objects of contempt and hatred, than of commiseration and pity, and wholly unworthy the attention of this House, in the relief asked for by this bill.

How different, sir, are our feelings now, from those nobler feelings, which the conduct of the merchants inspired during our late war; then, sir, the derangement of our fiscal concerns overwhelmed the patriots with gloom, and filled them with dismay, on account of the state of the Treasury; then the merchants came forward with their millions, which they lent, and raised the drooping spirits of the nation—the fair acquisitions of a long and prosperous commerce, in which agriculture partook of her just share—a commerce which gave the most unexampled prosperity to this nation, and was a most valuable nursery for Ameri-

can seamen, with whom, during our late war, our ships of war were nobly manned, by whose gallant achievements our Navy conquered the British Lion in many single combats, and humbled the proud Turk; and the brilliancy of whose star-spangled banners illumined both hemispheres, and covered the nation with glory. Yet, sir, their noble deeds are now not only forgot, but they themselves are ungratefully branded with every epithet that can make them odious and detestable. How different is the conduct of Great Britain towards her merchants! They have a great and a just share of the confidence of that nation. They are called into council on all great commercial questions, and their wealth is always therefore at the service of that nation. They are treated as a respectable branch of their population, and their interest and reputation are treated with all that respect that is due to every other branch of society; and, I ask, is there a nation on earth whose commercial prosperity and naval glory ever equalled theirs, till our own, in our long peace, and late glorious war? And now, sir, we are trying to fulfil the libellous remark, that Republics are famed for ingratitude, by the denunciation of our merchants, and refusing to extend to them the benefit of the bankrupt system, because it may be abused; and, in both instances, in defiance of the wisdom, the experience, and practice of Great Britain—the wisdom of whose laws and judicial proceedings are admitted by all who are acquainted with them; the astuteness of her judges by all who have examined their decisions; where questions of *verum* and *tuum* are decided, I might almost say, with mathematical certainty; and where a bankrupt law has been in operation for more than a century, with the same provision as to the future acquisitions of their bankrupts that is contemplated in this bill. Yet we, who have derived all our judicial intelligence from that nation, and have generally adopted her laws, are now to neglect all her lessons of wisdom and experience that relate to her bankrupt system. Sir, it has been attacked by a strong column of Virginians, forming a phalanx so impregnable, that they almost swept me away with their morality and metaphysics. One of them (the honorable Mr. STEVENSON,) has expressed his doubts of the constitutionality of a bankrupt law, notwithstanding the letter of the Constitution, as stated, and the existence of the law of eighteen hundred, which received the assent of the Legislature, and the Executive, and the Judiciary, in its execution, without even a whisper against its Constitutionality. Nor, sir, was its unconstitutionality ever dreamed of till this gentleman told us of it. I am happy to class it among his visions, as I am sure his distinguished talents, fairly exercised in his wakeful moments, would have led him to a different conclusion. So violent are his objections to this law, that he has called it a monster that to be known is to be detested, and he has pressed upon us the faith of contracts, which he contends this law will violate, with such a degree of ardor, that, I have little doubt, had he been the attorney for Shylock, the Jew, who claimed the pound of flesh nearest the

MARCH, 1822.

The Bankrupt Bill.

H. OF R.

heart of his debtor, which the Judge decided he had a right to take, but not to shed one drop of blood, he would have had recourse to the cautery, (the only means of taking the pound of flesh, without drawing blood,) insisting on the maxim, *Quando lex aliquid concedit, concedere videtur, et id per quod devenitur ad illud.*

He, sir, to demonstrate the impropriety of passing this act, has read, from a report of the British House of Commons, some of the evidence and remarks relative to the abuses under the bankrupt law, which was referred to that committee to be amended or repealed, and has insisted that we ought to take warning thereby. I think we ought, myself, but not to reject, but pass this law, as the British Parliament did not repeal but amend that law. Would the gentleman ask us to pay more respect to the report of a committee of the British House of Commons, than to the decision of the House of Commons, who paid so much respect to the commercial interest of that country, that, notwithstanding all the defects and abuses reported, continued the law, which is now in force? He reminds me of a case I once witnessed, of a lawyer, who read a case that was put into his hand, while speaking, and which was exactly in point, but unfortunately exactly against his client. He is so bitterly opposed to this bill, that he proclaims war with the framers of the Constitution, because the power to pass it is claimed by that instrument; and has remarked, that the honorable gentleman from Maryland, (Mr. WRIGHT,) was himself an anti-federalist. In reply, I feel it due to myself to remark, that I was nominated by the House of Representatives of Maryland, as a member of the Convention that framed the Constitution; but, being in the practice of the law, and believing that the Convention would be confined to the avowed object that induced Congress to call it, to wit: the vesting them with the power to lay imposts and duties, I therefore declined. That, on the publication of the Constitution for the consideration and adoption of the people, I felt dissatisfied that there had been no provision for the trial by jury, either in criminal or civil cases, one of the best features in Magna Charta, and really the palladium of British liberty. I recollected the passage in Blackstone, where it was asserted that Sparta and Rome had lost their liberties, and that Britain also would lose hers; to which, it was replied, that, although Sparta and Rome had lost their liberty, it would be recollected they had not the trial by jury, and that prediction had not been verified; and, I am happy to say, that the opposition to that instrument that gave us the name of anti-federalists, produced the effect contemplated, the amendments to the Constitution, which were incorporated in the Constitution, and has made us a great and happy people, and will be an indissoluble bond of union, so long as it shall be executed in the spirit of the instrument, which, it can never be forgot, was the effect of mutual concession, and must be executed with the same spirit, embracing as it does so many variant interests.

Sir, I was really pleased with Virginian morality and metaphysics, especially that of the honorable

the Speaker, (Mr. BARBOUR,) to whom I always listen with pleasure, and with whom I have acted for many years, and that, too, in troublesome times, in such concert, that I entreat his attention to my remarks on this subject, that we may act together on this bill. I have shown the faith of the nation has been pledged by the Constitution for the establishment of a system of bankruptcy, under the present circumstances of this nation; such a law as was known to the framers of the Constitution, as existing in Great Britain, and which discharged the bankrupt from the payment of all debts due by him before his discharge. I ask if this House, after the express grant to pass such a law in the great charter, can be misled by any suggestion of its being in violation of the faith of contracts, when the power is clearly and expressly granted? And I also ask, if the facts in this case are not such as not only to establish its policy, but the necessity? These honorable gentlemen have exhibited such united zeal in their opposition to this bill, that I have been led to suspect there was some local cause that thus united them; nor were my suspicions unfounded.

In Virginia, they are governed by the "British Eligit," a mode of execution directed by that law, where the real estate of the debtor is to be valued by a jury as to its annual value, and taken, at that valuation, for as many years as will satisfy the judgment, so that a debt of five hundred dollars against a landholder, whose estate is valued at one hundred dollars per year, will be taken to pay the debt in five years—and when I inform you that those sovereigns of the soil, in this ancient dominion, possess almost exclusively the right of suffrage, you will not be at a loss to account for their united zeal in opposition to this bill, by which the real property of Virginians, as in every other State, would be subject to be taken and sold immediately, on a judgment, for the payment of their debts, at whatever it would bring.

Thus you will discover their refined morality and delicate regard to the faith of contracts, which has induced them to persist in their objections as they have—founded on the section that prevents the States passing any law in violation of the faith of contracts. But how they will account to the nation for resisting the bankrupt bill because it will subject their property to be sold for gold or silver for the payment of their debts, when, in the same article, it is expressly declared "that nothing but gold or silver shall be a tender in payment of debts," is a question that I think will defy their metaphysics, especially when it is known, that that State not only compels the creditor to take real property, but to apply its rents by instalments.

Here let me contrast the conduct of Maryland with this Eligit business. At the adoption of the Constitution in Maryland, by a law of that State, real and personal property, taken in execution, were to be valued by two persons chosen by the plaintiff, and two by the defendant, at which valuation the property became the plaintiff's in discharge of the debt. The judges in Maryland, immediately after the adoption of the Constitution, decided that, as, by the Constitution of the United

States, nothing but gold and silver could be a payment of debts, and they sworn to execute it—"that it operated as a repeal of that law;" and the Legislature of Maryland, under the same impression, did, by their own act, repeal it; yet we find that Maryland, on this floor, advocates this bill, while Virginia opposes it. The honorable A. SMYTH, of Virginia, tells us that it violates the great right of habeas corpus, where it refuses to discharge the bankrupt from prison, on his refusing to answer such questions touching the discovery of his property as the commissioners might legally propound. I would ask that gentleman if he was trying a cause, and he had summoned a material witness, without whose testimony the cause could not be fairly tried, who refused to answer, and the court had committed him for the contempt, whether the witness in that case ought to be discharged, by habeas corpus, and that he would be so kind as to point out a distinction between the two cases? The honorable Mr. TUCKER, of Virginia, has a direful opinion of merchants; they are, therefore, not to be considered with any sort of respect. If they make a good voyage they pocket the proceeds, and if they become bankrupt they ought to be subject to the consequence, even, I suppose, imprisonment for life. It seems he represents few of that class. But one of his objections I think he did not duly consider—that it would prevent the bankrupt from paying a debt to a friend who had lent him money, perhaps without interest, whose debt he was in honor bound to prefer. One of the very best objects of the law was, to arrest preferences; an object so odious in the sight of the law, that, in every well regulated State, where there is not enough to pay all the debts, the loss is apportioned among the creditors agreeably to their respective claims. The gentleman from Pennsylvania (Mr. BUCHANAN) is so hostile to the bill, that he objects to it because men, without mercantile skill, upon speculative principles, enter into it, and, by their ignorance of the business, become bankrupt; every man, in whatever business he undertakes, must have a beginning; and the presumption is, that every man will adopt that avocation that will best promote his interest; and it seems uncharitable to refuse relief, because he did not do better than he did, when he surely did the best he could. Was I, as the representative of this young adventurer, whose misfortunes had elicited these remarks, instead of his sympathies, to ask that honorable gentleman how long he had been a member of Congress, and because this was his first session to denounce his arguments on that ground, as unfit for the business, what, I ask, would be his feelings? Such, I presume, as a decent respect to this young merchant, would have prevented him from inflicting.

Sir, great reliance has been placed on the decision of the Supreme Court, in the case of Sturges and Crowninshield, by the Hon. Mr. STEVENSON, as bearing on this case. This opinion I have promised to examine. There the court have said, "That the States can pass a bankrupt law, or an insolvent law, but they cannot by such law discharge the bankrupt or insolvent debtor, so that

'his property obtained after his discharge should not be liable to a *fiert facias*, but that his person should not be liable to a *ca. sa.*," although the State law did discharge both his property and person, on complying with its conditions. For this opinion they rely on the tenth section first article of the Constitution; "That no State shall (*inter alia*) emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, or *ex post facto* law; or law impairing the obligation of contracts." That Congress may pass a bankrupt law, discharging the person and property of the bankrupt acquired after such discharge, has been decided by the court. Yet in this case they have decided that the States cannot pass a bankrupt law or insolvent law, so as to discharge the property of such bankrupt or insolvent acquired after his discharge, from being liable to the debts due before such discharge. They say a State may pass a bankrupt law, which the Constitution declares must be uniform throughout the United States. If uniformity is necessary, how could the States legislate on that subject, so as to produce that effect, unless they could be as fortunate as the twelve tribes of Israel are said to have been, when six from each tribe were convened in twelve several apartments, and translated the Bible severally so exactly alike that there was not the variation of a letter, and produced the translation called the Septuagint? But in this case the court say, "That uniformity is perhaps incompatible with State legislation on that part of the subject to which the acts of Congress may extend. But the subject is divisible into bankrupt and insolvent laws." And the Court have further said, "Whenever the terms in which a power is granted to Congress, or the nature of the power, requires that it should be exercised exclusively by Congress, the subject is as completely taken from the State Legislatures as if they had been expressly forbidden to act on it." I think the Court have showed that the States cannot pass a bankrupt law, notwithstanding their dictum—first, because it cannot be uniform throughout the United States; and, secondly, because the terms in which the power is granted, and the nature of the power, show that it ought to be a national act, from its international effect and operation.

Sir, the idea that the States could pass a bankrupt law, and that that law could not discharge the bankrupt as fully as if passed by the United States, cannot be correct. The term *bankrupt* is technical, and its import is to be collected from its use, which was the discharge of the bankrupt's future acquirements. And it would be cruel to charge the Convention with the intention that a bankrupt law passed by Congress, and a bankrupt law passed by a State, should have so different an effect, that the one should and the other should not discharge the future acquirements of the bankrupt. The same reason applies to an insolvent act—a technical term, meaning the discharge of such persons as were not embraced within the purview of the bankrupt law—the one being confined to merchants and traders, the other to all other

MARCH, 1822.

The Bankrupt Bill.

H. OF R.

persons. The bankrupt law ought to be a national regulation, the insolvent law a State regulation, from their nature and effects.

By the 4th art., 4th sec. of the Constitution, is guaranteed, to every State in the Union, a republican form of government; and full faith and credit ought to be given to their public acts. Yet in this case the court have decided that a person discharged by a State insolvent law is only discharged as to his person; that his property, acquired after his discharge, is still liable to his debts due before his discharge; that a *fi. fa.* may issue to affect his property, though his person is not liable to a *ca. sa.*; and that, because it will "impair the obligation of contracts." How strange and inconsistent is this opinion, and by what extraordinary reasons is it maintained! "It is expressly stated that imprisonment is a means of 'compelling him to perform his contract;' but 'that the State may refuse to inflict this punishment, or may withhold this means, and leave the contract in full force.' Imprisonment, they say, 'is no part of the contract, and that simply to release the prisoner does not impair its obligation.' I ask, What was the law at the time of the contract, and whether that law was not a part of the contract, and subjected the party to a *ca. sa.* on non-payment of the judgment, unless there was an express stipulation in the contract against a *ca. sa.*'s issuing? Then I admit that, *conventio vincit legem*, and that a *ca. sa.* could not issue. And I, in my turn, ask, whether to issue a *fi. fa.* to take the property, was a part of the contract, on its inexecution, any more than a *ca. sa.* to take and imprison the person? Was not the *ca. sa.* the known means of compelling payment, and would not the refusing to issue the *ca. sa.* and imprison the debtor, be in violation of the contract, as much as to withhold the *fi. fa.*? They construe the prohibition in the Constitution to pass any law in violation of contracts, as applying to all contracts; that it shall apply to the case of insolvent debtors, as to their property, but not as to their persons, thereby making a distinction where there surely is no difference; for surely the person and property are both or neither responsible, and I contend neither are liable. I will show the object intended to be guarded against by the prohibition, "to violate the faith of contracts," as distinctly as the court have the clause against "the emission of bills of credit," or the "making any thing but gold or silver a tender in payment of debts." By a statute of Maryland, passed 1780, c. 5, s. 9, it is provided, "That any American merchant who, before September, 1776, had bought goods of a British merchant, and sold those goods for Continental money, to pay said British merchant, and had kept the money for that purpose, which, by the war, he had been prevented from paying, might pay the same into the Treasury, and that the receipt of the Treasury should be evidence of the payment, and the plaintiff barred of his action on this evidence by this act." This and such cases were the cause of that provision against any law "in violation of the faith of contracts." These were the laws complained of as preventing

the recovery of British debts, and led to the inexecution of the Treaty of Peace—the withholding the western posts, and the carrying away the negroes stipulated by the treaty to be returned—and led to the memorable speech of Lord Dorchester to the Indians, fraught with such savage barbarity that the British Cabinet denied that it was by their authority. This, sir, I have no doubt, was the cause of that article which prohibits the States from passing any law in violation of the faith of contracts. It is impossible for any rational, reflecting mind to have intended the violation of the first principles of common justice and equal law, so as to authorize a merchant bankrupt to be fully discharged, and an insolvent debtor to be still liable by his future acquisitions, in violation of the letter of the laws of many of the States. Maryland, in 1773, passed her insolvent law, thereby providing for the full discharge of the insolvent, which was in force at the time of the adoption of the Constitution, and insolvents fully discharged, until the late opinion of the court in this case has imposed this unequal and improper distribution of justice, if it can be so called; which opinion I trust the House will overrule, although we admit the court, in their decisions, generally luminous and correct. "*Arcum non semper tendit Apollo.*" Even the God of Wisdom himself may sometimes err.

Sir, I hope the conduct of the nation to the manufacturing interest, in the imposition of such a system of duties as sacrificed every other class to them, will have its just influence on that part of the House that particularly represent that interest. I hope those gentlemen who represent that landed interest which last year was relieved from a great part of their debt for lands purchased of the public—a measure predicated on the appreciation of money, which rescued them from ruin, raised their sinking spirits, and did great honor to the just and humane feelings of its projectors, met the approbation of the people, to which every honorable feeling of the nation responded—will recollect those things; and I humbly entreat these honorable men to reflect that merchants are entitled, in their turn, to their sympathies and attention, and not to listen to those gentlemen who called into operation all the angry passions against this valuable class of citizens—disregarding the common rules of decency and decorum—inferring frauds and malpractices by reference to Great Britain, where, in the great number of cases, vile frauds might be expected. But are we, because abuses may be found in the execution of a necessary law, to refuse to pass it, or to abolish it? I ask, what would be the consequence? The trial by jury, nay, even the Christian religion, might, upon such principles, be abolished. We all recollect the execution of thirteen old women for witchcraft, by the verdict of a jury and judgment of Judge Hale, at one assizes; and we can never forget the case of the unfortunate Englishman, who dreamed that a buck, horns and all, was in the King's belly, who was convicted by a jury, upon the principle that he would not have dreamed it, if he had not meditated his death when awake.

H. OF R.

The Bankrupt Bill.

MARCH, 1822.

If we look at the history of the persecutions in the old world, under the pretext of the Christian religion, we shall find blood enough shed to float the navy of Great Britain, if it could be collected in a proper reservoir. On one side of the Channel you must believe in the doctrine of transubstantiation, under the penalty of death; on the other side, the same punishment was inflicted if you did. In the reign of the bloody Queen Mary, under the auspices of her more bloody confessor, five hundred were burnt at the stake in four years, because they could not believe that the bread and wine administered at the sacrament were the real body and blood of Christ. And we have seen the Pope, the Father of the Inquisition, singing a *Te Deum* on the bloody massacre of the Huguenots. And yet we enjoy the trial by jury, and consider it the best security of our rights; and we find the Christian religion, in its purity, progressing in the admiration of the world in the exact ratio that its mild principles are understood, in spite of all sectarian contestations, who, in all their bloody contests, have never been at issue on the divinity of tythes, but, from Moses to Morse, have had an itching palm. I must now remind honorable gentlemen, from the centre and the South, of the sensibilities they felt last year on the Missouri question, which had assumed symptoms of civil war, and had alarmed some of the best men of this nation for her fate. About this time, while brooding over the destinies of my country, and in contemplation picking my flint, I saw the noble darling of the honorable James Barbour, of the Senate, and found his firmness upon that occasion had alarmed the chieftain of the anti-Missourians in that body, from Pennsylvania, and made him retire from the unconstitutional ground he had assumed. Peradventure, he recollected the catastrophe that brought his relative, for his treasons during our glorious Revolution, to an untimely end. I now assure the House that I feel the same solicitude for the passage of this bill that I did for the happy settlement of the Missouri question. Mr. Chairman, I invoke this House to examine this question with temper, and decide it by the sacred instrument we have sworn to execute, deposited in this temple of liberty for execution. I feel such a desire for its passage that I never before felt such a wish for popularity; and if I could enlist your respect for me thereby, I would tell you that I had fought, in the ranks of Virginia, upon the shores of the Crisson, against Dunmore; that, as a captain in the 5th Maryland regiment, I had fought under the banner of our Washington at Germantown and Paoli, and had been always devoted to the liberties of my country, and would refer you to her archives for the evidence, and rejoice that I had made such an impression on this House as would enlist her sympathies, and convince her of the justice, the expediency, and necessity of the passage of this bill. And, although a forlorn hope, I will hail the honorable Representatives of the Ancient Dominion once more, by the high standing of her patriots and heroes, who have so often distinguished themselves in the Cabinet and in the field, and covered the nation with

glory, that I myself wish to be one-half a Virginian—and I entreat you to rally round the standard of the Constitution, by nobly retracting your error and sealing your devotion to the happiness and prosperity of the American people, secured as they are by their great charter, and vote with me for this bankrupt bill.

When Mr. W. sat down—

Mr. CUSHMAN, of Maine, delivered his sentiments as follows:

Mr. Chairman, I believe I can say with as much sincerity as any gentleman who has preceded me, that I am unwilling to consume the precious time of the Committee by prolonging the debate. I shall make, however, no apology. It is my right to express my sentiments; and as I listen with patience, if not with pleasure, to the reasonings of others, I claim the indulgence to be heard in my turn. The reasons which I shall assign for not striking out the first section, are these: that we have the Constitutional power and moral capacity to pass the bill; and that a bankrupt law, such as the bill contemplates, is not only in conformity with the purest principles of an enlightened humanity, but also demanded by the soundest maxims of national policy. Should I not greatly wander from these points, I presume I shall be considered within the scope of legitimate debate. That the Constitution contains the power is too evident to be denied. Nor do I see how it could be questioned, except from arbitrary and deceptive rules of construction—*rigid* and *liberal*—by which dogmas may be established, and axioms overthrown, at pleasure; or from a facility of assuming premises, and forcing conclusions—a mode of reasoning of which we have had more than one illustrious example.

Were I to pursue this latitude of reasoning, I could prove, with equal plausibility, that, were the power expressed in less unequivocal terms than it is, it could be deduced from some of the general provisions of the Constitution. Uniform laws on the subject of bankruptcy deeply concern the mercantile interest of the country. The power to regulate commerce is equally applicable to this case, as it is to laying embargoes, restricting navigation, or to others to which it may have been applied.

I observe further, that when the colonies dissolved their connexion with Britain, they did not declare any one State, as Massachusetts or Virginia, free and independent. The expressions of that memorable declaration are—"These United Colonies are, and ought to be, free and independent States." Gentlemen may use, or misapply words as they please, but, I believe, that it would be difficult to prove that any one State is, or ever has been, for any length of time, in the proper sense of the term, sovereign and independent. Sovereignty and independence belong to the Union. As the United States have the power to do whatever independent nations of right may do—and as such nations by their inherent right do pass bankrupt laws, by which the debtor is discharged, it follows that the United States may pass similar laws, by virtue of their inherent sovereignty.

MARCH, 1822.

The Bankrupt Bill.

H. OF R.

This power being not in the States separately, where is it, as the gentleman from New York, (Mr. GOLDEN,) forcibly put the question; where is it but in the nation? The gentlemen from the Ancient Dominion—I speak with reverence, for age is honorable, though the aged may not always understand judgment—the gentlemen from Virginia, (Messrs. ARCHER, BARBOUR, SMYTH, and STEVENSON,) who have taken part in this debate, on the powers of the National Government, appear to be very sensitive. I know not the cause, but they seem to me in an error, not only as to the magnitude and extent of those powers, but also as to the source from which they are derived. They seem to reason as if Congress were an assemblage of envoys, commissioned to consult the good of their respective States. I attribute to Congress a higher character, as being the representatives of the nation, and deriving their powers immediately from the sovereign people. For demonstration, strong in favor of this opinion, I refer you, Mr. Chairman, to the preamble of the Constitution. Here it is not said, we, the States, but “we, the people of these United States, do ordain and establish this Constitution.” What are my inferences? They are these: that, as we are the representatives of the people, for national purposes, we are bound to consult, not merely the local views of our respective States, but the paramount interests of the nation, and to pass such laws on the subject of bankruptcy, and all other subjects, keeping within fair construction and sound discretion, as the public good may require, any thing in boasted State rights to the contrary notwithstanding.

But should the Constitutional right be conceded, our moral capacity is denied; here we are met at every corner, and the superior obligations of morality and religion are placed as insuperable barriers. On this head I have to remark, what all history evinces, that when those who should be statesmen leave their proper functions and turn philosophers and mere religionists, there is reason to tremble for the safety of the Government and the liberties of the people. Who, more than the philosophers of France, furnished the materials for the bloody tragedy which, not long since, was exhibited on their political theatre? And who but the godly party in England, in times not very remote, put down one branch of the Legislature, beheaded the supreme executive, and established a military despotism? Though evils of this cast, or dye, or magnitude, are not immediately to be apprehended from the over-righteous politicians of our times; yet, I do fear, that should the bill, so obnoxious to them and so important to the nation, fall into their power, it would receive no compassion, but be torn limb from limb, embowelled, or decapitated. Of the gentlemen who deny our moral capacity to pass the bill, I would inquire what is morality? Is it not a system of rules arising out of the fitness of things, and calculated to promote human happiness? The excellence or perfection of every virtue, or the whole assemblage of all the virtues, consists in a happy medium. *In medio tutissimus ibis.* Carried beyond this, they partake of the vice to which they have

the nearest affinity. Justice, for example, which has been erected into the lord paramount of virtues, to which humanity, benevolence, sympathy, and even meek-eyed charity, with the whole train of the lovely qualities, (for the world of moral virtues, we now are told, was made for Cæsar,) must do fealty. Justice, if carried to a certain length, ceases to be a virtue, and becomes severity, rigor, oppression, and even cruelty. My meaning is illustrated in the conduct of Shylock, so often alluded to in this debate, who, because he held the bond, insisted on the pound of flesh nearest the heart, and contended that the State had no right, no moral capacity, to impair the obligation of his contract. Notwithstanding this reasoning, and the law, contract, and legal justice on his side, the moral feelings of mankind most cordially and spontaneously condemn, not only this Shylock, but also the State of Venice, for continuing in force laws by which an hard-hearted, unfeeling, avaricious individual could harass and excruciate his fellow-men, and sport with the sensibilities of the unfortunate. It is, sir, an unnatural state of things, when the head permits the less sensitive parts to constrict the more active limbs, and to impair the nerves of the system. I would not insinuate an invidious comparison. Agriculture is essential; manufactures are important; the one furnishes the materials, the other gives form and comeliness; but commerce is the vivifying principle, it breathes into society the breath of life, and it becomes an animated being. After all, what possible advantages can come from permitting the creditor to hold the debtor class in thralldom, and thralldom it must be, when Shylock holds his bond, and can, at his pleasure, extract a pound of flesh nearest the heart, and draw blood from the veins of a generous sensibility? Will this thralldom mend their broken fortunes, enable them to pay their debts, or add to the common stock of public wealth or enjoyment? No, sir, it must have a contrary tendency, and render both classes hopeless—the one of recovering their dues, the other of improving their condition; and the labor, skill, and enterprise of the latter must be lost, which, if at liberty to be exerted, would not only procure personal and domestic comforts, but not unfrequently serve to enrich, to improve, and to embellish society.

The holding of a numerous class in society in thralldom, appalling to every noble feeling of the mind, must be attended with other pernicious effects. “Oppression maketh a wise man mad;” and, if oppression arise from the operation of laws, it will nourish disaffection and engender hostility to the Government. These taking a wide range, and gaining strength, will be apt to break out into overt acts, endangering the public peace, and impeding the nation in its march to prosperity and glory. A Government, which lives and moves, and has its being in the will of the people, ought to be careful to remove every just ground of complaint, and studious to conciliate the affections of all descriptions of citizens. This can best be effected by countenancing the prosperous, affording encouragement to the enterprising, relief to the

H. OF R.

The Bankrupt Bill.

MARCH, 1822.

unfortunate, and to all, security from injury and oppression. The most noble act passed by the last Congress is that by which numbers of our Western brethren were rescued from a deplorable condition. In this instance the Government acted the part of a wise and affectionate parent, desirous to promote the welfare of his children and quietude of his family. And will it now cease to act the parent, and deny its affectionate regards to a numerous class of sufferers in the East, who deserve well of their country? And will those who, because they had nothing to pay, were frankly forgiven a debt of ten thousand talents, now urge the Government to take by the throat their fellow-sufferers, who owe but a hundred pence, and cast them into prison, or detain them in bondage, till they shall pay all that is due? I beg pardon, Mr. Chairman, for this allusion; but I am reasoning with men of moral and religious capacity, and I fain would hope moral and religious men. But the bill is objected to, because, should it pass into a law, its benefits would be realized by the fraudulent as well as the honest. I must confess, Mr. Chairman, I did not expect to hear such an objection from gentlemen who take religion for their guide, and who have so eloquently addressed our feelings on this subject. They surely must have forgotten a memorable fact, recorded in history, with which they may be supposed to be well acquainted—that an ancient city, the measure of whose iniquity was overflowing, would have been saved from signal ruin, had there been in it five righteous persons. What does this fact teach? Does it not teach that indulgence ought to be granted to a numerous class of men, were but the smallest portion of them well deserving? But there is reason to believe that, by far the larger part of the sufferers, for whose relief the bill proposes to provide, are meritorious characters. They are men of rectitude and honor, who have seen better days. And their misfortunes have been brought upon them by causes over which they could have no control—by the operation of laws which were intended for the public good. These men, sir, who now supplicate your favor, once contributed largely to the supply of your Treasury, and diffused wealth, and refinement, and elegancies, through the community.

Does it comport, sir, with the principles of a free Government—I appeal to your sense of right—to deny a citizen the enjoyment of his personal liberty because he is destitute of gold? Is it consistent with the law of God, written in the heart, or revealed in his word—I appeal to your conscience—to hold the unprosperous in a sort of vassalage, and to cause poor misfortune to feel the lash of vice? I appeal, sir, to your well known humanity—to the Christian feeling which I know you to cherish: Can you behold the man of sentiment and virtue, overwhelmed with wretchedness—his prospects blasted—his ambition cramped—his energies paralyzed—his family undone—his children in distress—himself borne down by the current of events—destitute of comfort, denied hope—bleeding at every vein of his sensibility, and his manly soul ready to sink under all the heaviness of woe?

Can, you, Mr. Chairman—I put the question to your heart—behold a fellow being in this forlorn and distressing condition, and not exert every faculty, all the influence you possess, to procure the passage of a law which shall give a man so unfortunate the desired relief? If, in the opinion of an ancient philosopher, a brave man struggling with adversity was a spectacle which might move the gods to commiseration, surely a number of worthy characters, fallen from affluence to poverty, and drinking deeply of the cup of human misery, may well excite human sympathies. Yield, sir, to these generous emotions of your nature—for then will you act in accordance with morality and religion, when you deal your bread to the hungry—when you undo the heavy burden—when you let the oppressed go free—when you break every yoke. What now restrains you? A sense of public justice? What is public justice? A sort of conventional virtue, whose binding force is founded on principles of utility. And justice, in every well regulated Government, is softened by clemency and directed by wisdom. Thus it is in the Divine Government, which it will be the highest glory of all human legislators to imitate.

A gentleman from South Carolina, (Mr. MITCHELL,) who distinguished himself in the early part of this debate, fairly would dissuade us from passing this bill on account of the difficulty of executing the law on bankruptcy in his section of the country. I regret he should thus address our fears, or presume on the weakness of Government. The American Republic is not so inefficient as the honorable gentlemen may suppose. Strong in the affections of an enlightened people, it has nothing to fear, as past experience demonstrates, from local combinations. Pursuing a policy wise, firm, and salutary, it is extending far and wide its influence, and securing in every direction the confidence and support of the patriotic and well affected of the nation. And by a judicious exercise of its legitimate authority, it will be able to protect the peaceable citizens, and to curb the ambition of aspiring States—

"Parcere subjectis et debellare superbos."

But were opposition to the laws to be apprehended from any quarter, it is not, surely, from South Carolina. South Carolina, by the able statesmen which she furnishes to the nation, gives the most unequivocal proofs of her intelligence, patriotism, and attachment to the Union. Her citizens will never so far lose sight of the proud eminence on which they stand, as to oppose, *vis et armis*, or in any other manner, laws in accordance with the spirit and letter of the Constitution, and as wise and salutary as they are Constitutional. No—that distinguished State, and emulous of still higher distinctions, will continue to give illustrious proofs of her attachment to the Government and obedience to the laws. Though not in South Carolina, yet there are, it must be confessed, to be seen some portentous omens; *signs of the times*, that augur no good to our confederated Republic; I mean the growing symptoms of disaffection to an important branch of the Government—incip-

MARCH, 1822.

Proceedings.

H. OF R.

ient efforts to destroy the independence of the supreme judiciary, or to circumscribe its most salutary powers. The gentleman to whom I referred, (Mr. MITCHELL,) assigned, as another reason for his opposition to the bill, the incompetency of the persons who might accept the appointment to perform, with intelligence and fairness, the duties of commissioners. And, indeed, if none but those whom he styled pettifogging attorneys, and characterized as lacking in rectitude and honor—as a nuisance to society and a disgrace to the liberal profession of the law—if none but such characters were to be appointed to carry the law into effect, there would, indeed, be insuperable objections. For men of this description, “clothed with a little brief authority, *usually* play such fantastic tricks before high Heaven, as make the *angels weep*.” But the gentleman must be sensible that such characters, if any such there are, have neither the countenance of the profession to which they are attached, nor of the public, and, of course, could not make their way to preferment. The President, who is to have the power of appointment, would doubtless exercise it according to sound discretion, and, as he does all other powers, to the *general* acceptance of the people and to the honor and interest of this nation. The bill to establish a uniform system of bankruptcy throughout the United States, I advocate, on the broad principles of public expedience and general utility. My immediate constituents being mostly agriculturists, and deriving a comfortable subsistence from the soil, have but small interest in its passage. I respect the motives and characters of those with whom I differ in opinion, and would not wound their sensibility. As men view objects through different mediums, and with different optics, it is not strange that they should come to different results. What to me appears highly salutary and beneficent, to others may be an *evil genius*, which discomposes their equanimity within these walls, haunts their midnight slumbers, and even threatens to meet them at Philippi. But, whatever be the difference of opinion as to the bill, its provisions, and effects, I trust that you, Mr. Chairman, and all able statesmen and sound patriots, will unite to give energy to the Government and support to the laws—to check, in the germ, an undisciplined spirit of innovation, and “frown indignantly on the first dawnings of every attempt” to mar the beauty, disturb the harmony, or impair the vigor of our political system.

When Mr. C. sat down—

On motion of Mr. DWIGHT, the Committee rose and reported, and on the question of granting leave to sit again—

Mr. TAYLOR, of New York, remarked that he had thought the time had nearly arrived in which it was proper for the House to expect the report of the Committee of the Whole on this bill. The subject had been a long time debated; and, although he had listened with patience and pleasure to the able arguments that had been made on the question, yet he would suggest to the friends of the bill whether there was not danger, by protracting a decision on it, that they might experi-

ence a fate like that of the General who wasted in deliberations in the camp that time he should have employed in gathering laurels on the field. Mr. T. had intended to express *his* sentiments on the subject; but, from the course it had taken, his purpose had been changed, and he could not but hope that, when the House went next into Committee, they would not rise again until the preliminary question now under discussion should be determined. He made these observations, therefore, with the hope that there would be to-morrow a full House, prepared to decide on the question.

Mr. SERGEANT concurred in many of the sentiments advanced by the gentleman from New York, (Mr. TAYLOR,) but he thought this was a subject, in regard to which, from its nature, the House must regulate how far and to what length the debate should be extended. He could not forbear, however, to notice that the subject of this bill, though several years on the tapis, had never received a full and fair discussion or decision, and that it had not really occupied at this session as much of the time of the House as would appear, inasmuch as it had been often put aside to give way to other business that seemed to press upon the House. He would further observe, that the advocates of the motion, who were opposed to the bill, were principally first heard, and perhaps it would be but justice that its friends should be heard in reply. Although he accorded with the general sentiment advanced by his friend from New York, yet he hoped the House would not fix with precision the day or the hour on which the debate should close.

After a few further remarks by Messrs. TAYLOR and SERGEANT, the Committee obtained leave to sit again, and the House adjourned.

THURSDAY, March 7.

Mr. FULLER presented a petition of Artemas Wheeler, stating that he is the inventor of a gun or small arm containing any number, not exceeding seven short barrels, so adjusted to the stock as to revolve and to admit of a successive discharge of the whole in a few seconds; and that he has made improvements in the rifle, and praying his right of property in his said improvements may be purchased for the benefit of the Army and Navy, or that a number may be purchased of him for the public service.—Referred to the Committee on Military Affairs.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to which was referred the bill from the Senate entitled “An act explanatory of the act for the relief of James Leander Cathcart, passed May 15, 1820,” reported the same with an amendment, accompanied by a report in detail. The bill was committed to the Committee of the Whole.

Mr. HEMPHILL, from the Committee on Roads and Canals, to whom was referred the bill from the Senate, supplemental to an act to appoint commissioners to lay out a road from Wheeling to the Mississippi, which bill directs that the road

H. OF R.

Bank of the United States.

MARCH, 1822.

shall pass through the capitals of Ohio, Indiana, and Illinois, reported amendments to the same; the effect of which, if agreed to, will be to reduce the number of commissioners from three to one, and to reduce the appropriation from ten to five thousand dollars.

The House then proceeded to the consideration of the resolution submitted yesterday by Mr. CANNON, on the subject of brevet officers, &c.; which was agreed to.

Mr. RANDOLPH moved to take into consideration the joint resolution from the Senate, to fix a period to the session, which now lies on the table; but the House refused to take it up.

ATTORNEY GENERAL.

Mr. COCKE called for the consideration of a resolution heretofore submitted by him in relation to allowances, in addition to his salary, which have been made to the Attorney General, within three or four years past; which was decided in favor of *consideration* (ayes 54, nays 53) by the casting vote of the Speaker.

Mr. WRIGHT moved to strike out the words "and by what authority such payment has been made."

This motion was advocated by the mover and Messrs. TOMLINSON and BUCHANAN, and opposed by Messrs. RANDOLPH and COCKE; but, before a decision thereon, the same was modified by the mover, by substituting the words "from what fund," in lieu of the words "by what authority."

Mr. FARRELLY thought the modification was as exceptionable as the original proposition. It was enough for the House to call for the facts, and they could determine with respect to the authority for themselves.

Mr. COLDEN thought the proposition, as it originally stood, implied no censure upon the Executive, and therefore moved to restore the words "by what authority."

This motion was negatived.

Mr. SANDERS moved to lay the resolution on the table; which motion was negatived.

The resolve, as modified, was then agreed to.

BANKRUPT BILL.

The House then resolved itself into a Committee of the Whole on the bill to establish a uniform system of bankruptcy throughout the United States.

Mr. DWIGHT took the floor, and opposed the motion to strike out the first section of the bill; and was succeeded by

Mr. BURROWS, of Connecticut, on the same side, who was followed by

Mr. SERGEANT, who continued his remarks in favor of the bill, and opposed to the motion, until about 4 o'clock; when, on motion of Mr. NELSON, of Virginia, the Committee rose and reported, and obtained leave to sit again.

BANK OF THE UNITED STATES.

Mr. SERGEANT, from a committee heretofore appointed, to inquire whether the Bank of the United States has not been in the practice of loaning money, &c., at a greater interest than at the

rate of 6 per cent. per annum, made the following report thereon:

The committee on the memorial of the Bank of the United States, to whom was referred a resolution, directing them to inquire "whether the Bank of the United States has not taken, and is not in the practice of taking, more than six per centum per annum for or upon its loans or discounts," report: That, having inquired into the facts deemed to be material in relation to the question proposed in the resolution, they find—

1. That it is, and, from the establishment of the Bank of the United States, has been, the practice of that bank, in calculating the discount upon a note payable a certain number of days after the date, to compute the interest upon a month of thirty days and the fractions of such a month; thus, one per cent. is charged for sixty days.

In this respect, the bank has conformed to the established, and, it is believed, universal usage in the United States, prevailing among individuals as well as in moneyed institutions, and to the most approved tables heretofore in use.

2. That, in charging the discount upon a sixty days' note, the bank and its branches have followed the usage of the place where the loan was made, as to the number of days, including the days of grace, for which the discount should be computed. In general, it has been the practice in the United States to charge the interest for sixty-four days; but there are some places where the interest is charged for only sixty-three days, and the branches established at such places have conformed to the practice there prevailing.

The committee do not think that there is any thing in either of the modes of computing interest adopted by the bank which calls for legislative interposition; and therefore submit the following resolution:

Resolved, That the committee be discharged from the further consideration of the subject.

Mr. SERGEANT moved that the said report be laid on the table, and printed.

Mr. COLDEN opposed the motion. He wished to bring the subject under the consideration of the House without further delay, and he was unwilling that any course should be taken which would have the effect to carry over the subject beyond the present session. Mr. C. had examined the orders of the day, and found somewhat more than one hundred cases already referred to the Committee of the Whole, all which it would be difficult to dispose of at this session of Congress. He thought the facts were distinctly stated in the report. They were clear and simple, in themselves, and they were as susceptible of being understood and discussed now, as at any future time, and he hoped the subject would be immediately disposed of, without further procrastination.

Mr. SERGEANT had really supposed the course he suggested would have been agreeable to the member from New York; but that gentleman would recollect that the subject was much more familiar to him than to others, and he believed it would be necessary that the report should be printed, in order that the members might act understandingly on the subject. Besides which, Mr. S. thought the present was not a fit time to agitate that question, when a bill of great importance

MARCH, 1822.

Spanish American Provinces.

H. OF R.

was under discussion, from which he intimated a wish not to be diverted.

Mr. TAYLOR said, he was not able to hear either of the gentleman last up, but he thought the proper course would be to print the report, and refer it to a Committee of the whole House; and he made that motion accordingly.

Mr. SERGEANT concurred in opinion with the gentleman last up, and therefore withdrew his motion to lay the report on the table.

Mr. COLDEN, thereupon, renewed the motion to lay it on the table, for, although he wished to discuss the subject now, yet he preferred to lay it on the table, whence it may be called up at any time, rather than refer it to a Committee of the whole House, whereby he was aware the subject might be postponed to a future session, which he could not consent to. He wished to meet the question at the earliest possible period.

The question was then taken, and the motion to lay on the table prevailed.

FRIDAY, March 8.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of William Guynn, accompanied by a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMS, from the same committee, also made a report on the petition of Loudon Case, accompanied by a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. FRANCIS JOHNSON, from the Committee on the Post Office and Post Roads, made a report on the petition of John Post and Farley Fuller, accompanied by a bill for their relief; which bill was read twice, and committed to the Committee of the Whole.

Mr. JOHNSON, from the same committee, also made a report on the petition of John Matteson, accompanied by a bill for his relief; which bill was read twice, and committed to the Committee of the Whole.

Mr. SERGEANT, from the Committee on the Judiciary, to which was referred the amendments proposed by the Senate to the bill entitled "An act for the due execution of the laws of the United States within the State of Missouri, and for the establishment of a district court therein," reported the agreement of that committee to the said amendments.

The question was then taken to concur with the Committee on the Judiciary, in their agreement to the amendments aforesaid, and passed in the affirmative.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill making appropriations for the support of the Navy of the United States for the year 1822, which was read twice, and committed to the Committee of the Whole.

Mr. SMITH, of Maryland, from the same committee, also reported a bill further to amend the several acts relative to the Treasury, War, and

Navy Departments; which was read, and ordered to lie on the table.

Mr. NEWTON, from the Committee on Commerce, reported a bill to provide for sick and disabled seamen; which was read twice, and committed to a Committee of the Whole.

Ordered, That the Committee on Commerce be discharged from the consideration of the petition of John White, of New York, and that it be referred to the Secretary of the Treasury.

Mr. VANCE, from the Committee on Roads and Canals, to whom was referred the report of a select committee, made on the 12th of May, 1820, relative to carrying into effect the provisions of the Treaty of Brownstown, made and concluded on the 25th day of November, 1808, with certain Indian tribes, made a report thereon, accompanied by a bill for laying out and making a road from the lower Rapids of the Miami of Lake Erie, to the western boundary of the Connecticut Reserve, in the State of Ohio, agreeably to the provisions of the Treaty of Brownstown; which bill was read twice, and committed to a Committee of the Whole.

The House took up and proceeded to consider the report of the Secretary of the Treasury, on the petitions of Colonel James Morrison: whereupon it was ordered that the said petitions and reports be referred to the Committee of Claims.

Mr. FLOYD submitted the following resolution, viz:

Resolved, That the Secretary of the Department of War be directed to furnish this House a statement of all the rations distributed to Indians during the years 1820 and 1821, excepting those issued by the commissary at the military posts, designating the place where issued, the time when, and by whom.

The resolution was ordered to lie on the table one day.

A message from the Senate informed the House that the Senate have passed bills of the following titles, viz: "An act for the establishment of a Territorial government in Florida;" and "An act concerning the commerce and navigation of Florida;" in which bills they ask the concurrence of this House.

BANKRUPT BILL.

The House then resolved itself into a Committee of the Whole on the bill to establish an Uniform System of Bankruptcy throughout the United States.

Mr. SERGEANT resumed the argument which he commenced yesterday, and concluded it at a little past three o'clock.

Mr. RANDOLPH then took the floor, and occupied it till after five o'clock against the bill; when, the Committee rose, reported progress, and obtained leave to sit again.

SPANISH AMERICAN PROVINCES.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives of the United States:

In transmitting to the House of Representatives the documents called for by the resolution of that House,

of the 30th January, I consider it my duty to invite the attention of Congress to a very important subject, and to communicate the sentiments of the Executive on it, that, should Congress entertain similar sentiments, there may be such co-operation between the two departments of the Government as their respective rights and duties may require.

The revolutionary movement in the Spanish provinces in this hemisphere attracted the attention and excited the sympathy of our fellow-citizens from its commencement. This feeling was natural and honorable to them, from causes which need not be communicated to you. It has been gratifying to all to see the general acquiescence which has been manifested in the policy which the constituted authorities have deemed it proper to pursue in regard to this contest. As soon as the movement assumed such a steady and consistent form as to make the success of the provinces probable, the rights to which they were entitled by the law of nations, as equal parties to a civil war, were extended to them. Each party was permitted to enter our ports with its public and private ships, and to take from them every article which was the subject of commerce with other nations. Our citizens, also, have carried on commerce with both parties, and the Government has protected it, with each, in articles not contraband of war. Through the whole of this contest the United States have remained neutral, and have fulfilled with the utmost impartiality all the obligations incident to that character.

This contest has now reached such a stage, and been attended with such decisive success on the part of the provinces, that it merits the most profound consideration whether their right to the rank of independent nations, with all the advantages incident to it, in their intercourse with the United States, is not complete. Buenos Ayres assumed that rank by a formal declaration in 1816, and has enjoyed it since 1810 free from invasion by the parent country. The provinces composing the Republic of Colombia, after having separately declared their independence, were united by a fundamental law of the 17th of December, 1819. A strong Spanish force occupied, at that time, certain parts of the territory within their limits, and waged a destructive war. That force has since been repeatedly defeated, and the whole of it either made prisoners or destroyed, or expelled from the country, with the exception of an inconsiderable portion only, which is blockaded in two fortresses. The provinces on the Pacific have likewise been very successful. Chili declared independence in 1818, and has since enjoyed it undisturbed; and of late, by the assistance of Chili and Buenos Ayres, the revolution has extended to Peru. Of the movement in Mexico our information is less authentic, but it is, nevertheless, distinctly understood, that the new Government has declared its independence, and that there is now no opposition to it there, nor a force to make any. For the last three years the Government of Spain has not sent a single corps of troops to any part of that country; nor is there any reason to believe it will send any in future. Thus, it is manifest, that all those provinces are not only in the full enjoyment of their independence, but, considering the state of the war and other circumstances, that there is not the most remote prospect of their being deprived of it.

When the result of such a contest is manifestly settled, the new Governments have a claim to recognition by other Powers, which ought not to be resisted.

Civil wars too often excite feelings which the parties cannot control. The opinion entertained by other Powers as to the result may assuage those feelings and promote an accommodation between them useful and honorable to both. The delay which has been observed in making a decision on this important subject, will, it is presumed, have afforded an unequivocal proof to Spain, as it must have done to other Powers, of the high respect entertained by the United States for her rights, and of their determination not to interfere with them. The provinces belonging to this hemisphere are our neighbors, and have, successively, as each portion of the country acquired its independence, pressed their recognition by an appeal to facts not to be contested, and which they thought gave them a just title to it. To motives of interest this Government has invariably disclaimed all pretension, being resolved to take no part in the controversy, or other measure in regard to it, which should not merit the sanction of the civilized world. To other claims a just sensibility has been always felt, and frankly acknowledged, but they, in themselves, could never become an adequate cause of action. It was incumbent on this Government to look to every important fact and circumstance on which a sound opinion could be formed, which has been done. When we regard, then, the great length of time which this war has been prosecuted, the complete success which has attended it in favor of the provinces, the present condition of the parties, and the utter inability of Spain to produce any change in it, we are compelled to conclude that its fate is settled, and that the provinces which have declared their independence, and are in the enjoyment of it, ought to be recognised.

Of the views of the Spanish Government on this subject, no particular information has been recently received. It may be presumed that the successful progress of the revolution, through such a long series of years, gaining strength, and extending annually in every direction, and embracing, by the late important events, with little exception, all the dominions of Spain south of the United States, on this continent, placing thereby the complete sovereignty over the whole in the hands of the people, will reconcile the parent country to an accommodation with them, on the basis of their unqualified independence. Nor has any authentic information been recently received of the disposition of other Powers respecting it. A sincere desire has been cherished to act in concert with them in the proposed recognition, of which several were some time past duly apprized, but it was understood that they were not prepared for it. The immense space between those Powers, even those which border on the Atlantic, and these provinces, makes the movement an affair of less interest and excitement to them than to us. It is probable, therefore, that they have been less attentive to its progress than we have been. It may be presumed, however, that the late events will dispel all doubt of the result.

In proposing this measure, it is not contemplated to change thereby, in the slightest manner, our friendly relations with either of the parties, but to observe, in all respects, as heretofore, should the war be continued, the most perfect neutrality between them. Of this friendly disposition, an assurance will be given to the Government of Spain, to whom it is presumed it will be, as it ought to be, satisfactory. The measure is proposed, under a thorough conviction that it is in strict accord with the law of nations; that it is just

MARCH, 1822.

Spanish American Provinces.

H. OF R.

and right as to the parties; and that the United States owe it to their station and character in the world, as well as to their essential interests to adopt it. Should Congress concur in the view herein presented, they will doubtless see the propriety of making the necessary appropriations for carrying it into effect.

JAMES MONROE.

WASHINGTON, March 8, 1822.

[Accompanying the Message of the President of the United States was the following report:]

DEPARTMENT OF STATE,

Washington, March 7, 1822.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 20th of January last, requesting the President of the United States to lay before that House such communications as might be in the possession of the Executive from the agent of the United States, with the Governments south of the United States which have declared their independence; and the communications from the agents of such Governments in the United States, with the Secretary of State, as tend to show the political condition of their Governments, and the state of war between them and Spain, as it might be consistent with the public interest to communicate, has the honor of submitting to the President the papers required by that resolution.

The communications from the agents of the United States are only those most recently received, and exhibiting their views of the actual condition of the several South American revolutionary Governments. No communication has yet been received from Mr. Prevost since his arrival at Lima.

There has been hitherto no agent of the United States in Mexico; but among the papers herewith submitted is a letter recently received from a citizen of the United States, who has been some years residing there, containing the best information in possession of the Government, concerning the late revolution in that country, and specially of the character embraced by the resolution of the House.

JOHN QUINCY ADAMS.

To the PRESIDENT of the United States.

LIST OF THE DOCUMENTS TRANSMITTED.

Papers with the report of the Secretary of State to the President, of 7th of March, 1822, in relation to South American Affairs.

The Secretary of State to John M. Forbes, 5th July, 1820.

Mr. Forbes to Secretary of State, 2d September, 1821, extracts.

Same to same, 11th September, 1821, extracts.

Same to same, 28th September, 1821, extracts.

Same to Mr. Rivadavia, 14th September, 1821.

Mr. Rivadavia to Mr. Forbes, 15th September, 1821.

Minute of a conference with Mr. Rivadavia, 17th September, 1821.

Mr. Rivadavia to Mr. Forbes, 6th October, 1821.

Decree, 6th October, 1821.

Mr. Forbes to Secretary of State, 26th October, 1821, extracts.

Same to same, 8th November, 1821, extract.

Same to same, 13th November, 1821, extracts.

Mr. Prevost to Secretary of State, 30th June, 1821, extracts.

Same to Mr. Joaquin Echeveria, 13th June, 1821, copy.

Gen. O'Higgins to Mr. Prevost, 23d June, 1821.

Mr. Hogan to the Secretary of State, 18th August, 1821, extracts.

Act of Independence of Peru, translation.

Mr. Brent to Secretary of State, 10th July, 1821.

Mr. Torres to same, 20th February, 1821, translation.

Fundamental law of Congress of Venezuela, 17th December, 1819, translation.

Credential letter to Mr. Torres, translation.

Mr. Torres to the Secretary of State, 30th November, 1821, translation.

Same to same, 30th December, 1821, translation.

Same to same, 2d January, 1822, translation.

Secretary of State to Mr. Torres, 18th January, 1822.

James Smith Wilcocks to the Secretary of State, 25th October, 1821.

Treaties concluded in the city of Cordova, on 24th August, 1821, between O'Donoju and Iturbide, translation.

Decree of the Regency of Mexico, translation.

Manifesto to the people of Mexico, translation.

[See Appendix for documents.]

Mr. CONDUCT moved to refer the Message, and documents accompanying it, to the Committee on Foreign Relations.

Mr. RHEA preferred that they should be referred to the Committee of the Whole on the state of the Union.

Mr. F. JONES, and Mr. LOWNDES, preferred that the reference should be made to the Committee on Foreign Relations, as the course most conformable to custom, and in itself the most proper. The first named of these gentlemen expressed his great satisfaction in having received such a Message, and his regret that it had not been sent earlier.

Mr. WRIGHT, also, expressed his great pleasure at this Message, the object of which, he said, the whole nation would approbate and hail with pleasure. He wished it to be referred to a Committee of the Whole on the state of the Union, that the subject might be fully before the House, &c.

Mr. TAYLOR said, the primary reference of this subject to the Committee of Foreign Relations would not deprive the gentleman from Maryland of the opportunity of making known his views on the subject, which he could do upon the report of that committee. The Message referred to a great extent of country; it embraced a number of Governments, to some of which it might be proper to send Ministers—to others not. Was it not wise, was it not proper, that the Message should be referred to some committee, that a definite proposition might be presented to the House, and that, after it was presented, the House should then make such a disposition of it as it should think best? This Mr. T. thought was the proper course.

Mr. CANNON thought the proper course would be to refer this subject to the Committee of Foreign Relations; but rose to move that the documents accompanying the Message should be printed, as well as the Message itself.

Mr. NELSON, of Virginia, suggested that the usual courtesy of the House, which allows a gentleman, on whose motion papers are required by the

H. OF R.

Proceedings.

MARCH, 1822.

House, to move a disposition of them, had been in this case departed from, being the first instance within his knowledge in which it had been done. But he rose to second the motion to refer these papers to the Committee on Foreign Relations. The object of the recommendation of the President, was to change the relations of this country with foreign Powers. If ever there was a case in which a subject ought to be referred to the Committee on Foreign Relations, this was such a case. He asked, also, that five thousand copies of the papers should be printed.

Mr. RHEA spoke at some length in favor of a reference of this subject to a Committee of the Whole on the state of the Union. He was opposed to any delay. It was well known now, he said, that these countries of South America have established their independence, so that it never would be overturned till the sounding of the last trumpet. These countries, under the auspices of the Almighty Governor of the Universe, have overturned their opponents, and established their independence at the expense of their blood and treasure. He was not for submitting to the Committee of Foreign Relations the question whether or not they should be acknowledged, &c.

Mr. FARRELLY drew, from the great disposition to debate this subject at this late hour, an argument against the reference of the subject to a Committee of the Whole. He apprehended that, if so referred, a discussion would arise on it which would consume half the session in unavailing debate, &c. He thought, also, courtesy required that the papers should be referred as wished by the gentleman on whose motion they had been called for.

Mr. JONES expressed his pleasure that his worthy colleague had become favorably disposed towards the acknowledgment of the independence of the Southern Republics. He wished to see a report from the Committee of Foreign Relations on this subject. Four years ago he had been in favor of recognising the independence of some of these Governments; and he should like to know, from the committee, in what their situation differed, when he was in a minority of forty-five on that question, from what it was at this moment. He was a plain, honest man—a plain one he knew, and he hoped an honest one—and he wished to have from the committee a plain and honest statement of the facts on this subject.

The question to refer the papers to a Committee of the Whole was negatived; and they were referred to the Committee on Foreign Relations.

On the question to print the documents, Mr. Cook supported that motion. The papers, he said, had a close bearing on the subject, and were from official sources. Not having himself that intuitive knowledge of the subject which some gentlemen seemed to possess, he wished these documents to be printed, that he might have an opportunity of examining them.

The Message and documents were both ordered to be printed. The question was stated on printing five thousand copies of the Message—when,

on motion of Mr. TAYLOR, (at six o'clock nearly) the House adjourned.

SATURDAY, March 9.

Mr. KENT presented a memorial of sundry inhabitants of the District of Columbia, praying for the passage of an act authorizing the election of a convention composed of representatives from the several sections of the District, for the purpose of ascertaining the sense of its inhabitants upon the expediency of forming a frame of government for said District; which memorial was referred to the Committee for the District of Columbia.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives of the United States:

I transmit a report from the Secretary of War, together with the annual return of the militia of the United States, and an exhibit of the arms, accoutrements, and ammunition, of the several States and Territories of the United States, prepared in conformity with the militia laws on that subject.

JAMES MONROE.

WASHINGTON, March 9, 1822.

The Message was read and ordered to lie on the table.

The resolution submitted yesterday by Mr. FLOYD, requesting information on the subject of distributing rations among the Indians, was taken up.

Mr. F. stated that his object in proposing this resolution was, that all the information on the subject with which it was connected, and which was soon to come under consideration of the House, might be laid before them. It consisted only of a transcript from the Department, but having applied for it, he was refused by the clerk, who gave him to understand that it would be agreeable to have all applications in future through the Secretary of War. Mr. F. had taken that course, because an idea had been entertained, from his frequent calls for information, that he entertained some hostility to that department, which he took this method and this opportunity to disavow. The resolution was agreed to.

On motion of Mr. MOORE, of Alabama, the Committee on the Public Lands were instructed to inquire into the expediency of reporting a bill vesting in the President and Commissioners of the Town Council of Tuscaloosa the right to that small slip of ground lying on the margin of the Tuscaloosa river, including the surface covered by a pond on the extremity thereof, which have not been surveyed or laid off in lots; and, also, the two acres and a half of land reserved and donated to the citizens of the county for special purposes.

The bill from the Senate, entitled "An act to establish a Territorial government in Florida," was read twice, and committed to the Committee on the Judiciary.

The bill from the Senate, entitled "An act concerning the commerce and navigation of Florida," was read twice, and committed to the Committee on Commerce.

The unfinished business of yesterday was then

MARCH, 1822.

The Bankrupt Bill.

H. OF R.

taken up—being a motion, which was pending when the House adjourned last evening, to print 5,000 additional copies of the Message of the President of the United States, recommending the recognition of the South American States.

A short debate took place on this question, in the course of which Mr. CHAMBERS moved to include the documents in the motion to print the extra number. This amendment prevailed, and, after some further debate, for and against the utility of printing an additional number, 5,000 copies of both Messages and documents were ordered.

NATIONAL MEDALS.

Mr. POINSETT, from the Joint Library Committee, made the following report:

"The Committee on the Library of Congress, to which was referred a letter from Mr. George W. Erving, announcing that he had transmitted to the Speaker of this House a collection of medals, coined in commemoration of some of the most important military successes of France, under its republican Government, and under that of Napoleon; as well as those marking less important epochs in the history of that empire, together with the only medals coined in that country relating to the events of our Revolution, and requesting, through him, to present this collection to the Library of Congress, have agreed to report:

"That, from a letter addressed to the honorable Mr. Dickerson, of the Senate, by the collector of the port of New York, it appears that the medals were shipped at Havre, on board the brig Factor, in the Summer of 1810, bound to New York, which vessel has not since been heard of, and is supposed to have foundered at sea.

"The loss of this very valuable collection of medals is the more to be regretted, as there is reason to believe that the dies from which they were struck have been since destroyed, and these medals are now, therefore, extremely rare and costly.

"The committee recommend that they be authorized to purchase, for the Library, the medals struck in France relating to the events of our Revolution, and which may still be bought at the Mint, in Paris.

"The practice, so general in Europe, of multiplying medals struck in commemoration of great events, and of important epochs in the annals of a nation, ought, in the opinion of the committee, to be adopted in this country. This would enable the public libraries and individuals throughout the United States to acquire all the medals which have been struck in commemoration of events of our Revolution, and of our late naval and military successes. They, therefore, recommend the adoption of the following joint resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Director of the Mint be, and he is hereby, instructed to cause a reasonable number of the medals commemorative of important events in the history of the United States to be coined, at such times as shall not interfere with the ordinary business of the Mint, and to be sold at a price adequate to defray the expenses of coining."

The report was read, and committed to a Committee of the whole House on Monday next.

THE BANKRUPT BILL.

The SPEAKER having announced the orders of the day, the House again resolved itself into a Committee of the Whole, on the bill to establish an uniform system of bankruptcy.

Mr. RANDOLPH rose and resumed the speech which he commenced yesterday in favor of striking out the first section, and spoke about two hours.

Mr. WRIGHT then rose and replied in a speech that occupied the House until three o'clock, when the question on striking out the first section of the bill was taken and decided in the negative—yeas 59, nays 79.

Mr. TRACY rose and remarked, that he had not felt disposed to say that Congress ought not to pass any bankrupt bill, but he had not thought that the bill on the table, in its present shape, was entitled to the favorable consideration of the House. He would frankly admit that, in whatever degree he had lent to it his approbation, he had been more influenced by sympathy, than by any well-founded conviction that society would be benefited by its passage. Yet he could not forbear to remark that his sympathy on the occasion was as broad as the object to which he could wish to extend it. He wished the bill to be—not partial, but general in its provisions, if it should be allowed to prevail; and perhaps one of the most forcible appeals in its favor was, that the community had hitherto expected in vain from the States, that relief which it was proved they were not competent to afford. Under this impression, he begged leave to submit the following amendment, to be added at the end of the first section of the bill:

And provided, also, That all persons whatsoever not embraced in the foregoing description who may, within twelve months from the time of passing this act, apply, in writing, to the judge of the district court in which he shall reside, setting forth his willingness to comply with all and singular the provisions of this act, shall, to all intents and purposes, be deemed and taken to be bankrupt; and the same proceedings shall be had in relation to such persons as if he, she, or they, were actually using the trade of merchandise by buying and selling in gross or by retail, and, in manner herein before directed, declared a bankrupt; and on such application a commission shall be awarded in the same manner as in other cases provided for by this act.

Mr. T. adverted to, and enlarged upon, at considerable length, the object of the amendment, and the circumstances of the individuals whom it was intended to embrace. He remarked that he should not be the advocate of the bill on the ground that it was to benefit creditors. His support would be derived from the relief which it was calculated to afford to poor and unfortunate debtors. He spoke of the effect which the bill might have upon debtors generally, and particularly upon those residing in the district which he represented, not only in respect to the subject generally, but to the practicability of adequate relief in the federal court. By the disastrous operation of events with which the House was not unacquainted, a great proportion of them had been

reduced, by misfortunes and calamities not of their own producing, to a situation in which they might find it expedient to resort to this law. But he believed there was not one-twentieth part of those who ought to be relieved that would be able to obtain relief under the present provision of the bill. Mr. T. would admit, as a general proposition, that its prospective operation should be confined to the mercantile class of the community, but, in reference to the retrospective operations of it he went into a discussion, at considerable length, to evince that the results of commercial affairs had been such, and so immediate, upon the interests of agriculture, especially in that portion of the country he had the honor to represent, that the effects of its fluctuations and depressions had been as severely felt by the farmer as by the merchant. The price of produce had regulated the price of land; and, if the buyer of the former was relieved, he hoped the relief would be extended to the purchaser of the latter, should the exigencies of his case require it. Mr. T. expressed his unwillingness to commit this question to future legislation or amendment; and he was prepared to say that, with such a provision, he could vote for the bill, but not without it.

Mr. SERGEANT remarked that the question now presented was an important one, and entitled to reflection; he, therefore, moved (it being nearly four o'clock) that the Committee rise and report progress; which was carried, and the Committee obtained leave to sit again.

MONDAY, March 11.

Mr. RANDOLPH had leave of absence from the service of this House from this day, for the remainder of the session.*

* MR. RANDOLPH'S VALEDICTORY TO HIS CONSTITUENTS.

To the Freeholders of Charlotte, Buckingham, Prince Edward, and Cumberland.

MY FRIENDS: For such indeed you have proved yourselves to be, through good and through evil report—I throw myself on your indulgence, to which I have never yet appealed in vain. It is now just five years since the state of my health reluctantly compelled me to resist your solicitation, (backed by my own wishes,) to offer my services to your suffrages. The recurrence of a similar calamity obliges me to retire, for a while, from the field of duty, and if I shall find it impracticable to return by December next, my resignation, (already written) will be tendered to the Governor in time to prevent your being unrepresented in the next session of Congress. It would be offered now, but that the approaching close of the session would render a re-election nugatory as to present purposes. The state of my affairs, (as is well known to some of you,) requires my presence at home—but self preservation imperiously enjoins a suspension of all business whatsoever—and indeed, with all my deficiencies for the station in which your partiality has been pleased to place me, I have never yet postponed your interests to my own.

Should the mild climate of France, and the change of air, restore my health, you will again find me a

Mr. SCOTT, from the Committee on the Public Lands, reported a bill enabling the claimants to land within the limits of the State of Missouri to institute proceeding to try the validity of their claims; which was read twice and committed to the Committee of the Whole.

On motion of Mr. COOK,

Resolved, That so much of the report of the Secretary of the Treasury, accompanying the correspondence laid before this House on the 15th of February last, between the Secretary and the several banks in which the public moneys arising from the sale of the public lands were deposited, as relates to the increase of the compensation of the receivers of public money, and to the making of provision to enable the Government to render certain deposits of uncurrent bank paper available hereafter, be referred to the Committee on the Public Lands.

candidate for your independent suffrages, at the next election, (1823.)

I have an especial desire to be in that Congress which will decide (probably by indirection) the character of the Executive Government of the Confederation for at least four years—perhaps forever—since now, for the first time since the institution of this Government, we have presented to the people the Army candidate for the Presidency in the person of him who, judging from present appearance, will receive the support of the Bank of the United States also. This is an union of the purse and sword with a vengeance; one which even the sagacity of Patrick Henry never anticipated, in this shape at least. Let the people look to it, or they are lost forever. They will fall into that gulf which, under the artificial military and paper systems of Europe, divides Dives from Lazarus, and grows daily and hourly broader, deeper, and more appalling. To this state of things we are rapidly approaching under an Administration, the head of which sits *an incubus* upon the State, while the lieutenants of this new mayor of the palace are already contending for the succession, and their retainers and adherents are with difficulty kept from coming to blows even on the floor of Congress. We are arrived at that pitch of degeneracy when the mere lust of power, the retention of place and patronage, can prevail not only over every consideration of public duty, but stifle the suggestions of personal honor, which even the ministers of the decayed Governments of Europe have not yet learnt entirely to disregard. Should God spare me, you shall be informed how it has come to pass, that, after settling the Florida question at the expense of a vast sacrifice of territory “south of thirty-six and a half of north latitude”—we are yet embroiled with Spain—and, in passing, it may be as well to recollect that the command of the Red River and the Arkansaw (the gates of New Orleans) will have to be contested, not with the imbecile and puny Government of Spain, but with a young and rising, and therefore ambitious Republic. Should it, however, be His will that we never meet again—be that will done on Earth as it is in Heaven—amen.

JOHN RANDOLPH, of Roanoke.

On board the steamboat *Nautilus*, underway to the *Amity*, Saturday, March 16, 1822.

P. S. I did not leave my seat until the fate of the Bankrupt bill (to which my mite was contributed) was ascertained. In case of need I was ready to vote on the third reading.

J. R. of R.